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MEASURES TO COMBAT DRUNK DRIVING

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

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SECOND SESSION

ON

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MEASURES TO COMBAT DRUNK DRIVING

THURSDAY, JUNE 14, 1984

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room SR-253, Russell Senate Office Building, Hon. John Danforth (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Karen Phillips, professional staff member, and Loretta Dunn, minority staff counsel.

OPENING STATEMENT BY SENATOR DANFORTH

Senator DANFORTH. This morning the Surface Transportation Subcommittee will examine the serious national problem of drunk driving. We have come a great distance in the fight against drunk driving and we have done so in a short time.

In 1982 Senator Pell and I joined to propose what has become the first expression of national commitment to get tough with drunk driving. We got the job done. More than a dozen States have received incentive grants for acting to strengthen their laws against drunk driving.

Our success in 1982 was made possible by a ground swell of public opinion. Today, the strong tide of support for the 21-year-old drinking age promises to enable us to send legislation to the President quickly.

This hearing falls in the midst of the prom and graduation season. It is a time of great joy and celebration, but it is also a time of tragedy, as many of our young people will become involved in drunk driving accidents, resulting in needless death and injury.

Traffic accidents in the United States claim about 45,000 lives each year. Drunk driving accidents are responsible for more than 50 percent of these deaths and roughly 670,000 serious injuries each year. This translates into 70 deaths and 1,800 injuries each day due to drunk drivers. Of particular concern are drunk driving accidents involving young people. Of the Americans killed each year in drunk driving accidents, roughly 10,000 are under 21 years of age.

Considerable attention has been focused on drunk driving in recent years, due largely to the efforts of grassroots organizations such as MADD, RID, SADD, and Citizens for Safe Drivers Against Drunk Drivers. The issue received more national attention in 1982 with the establishment of the Presidential Commission on Drunk

Driving and the enactment of the legislation providing grants to States to encourage enactment of tough drunk driving laws.

Last week the House of Representatives passed a provision as part of the highway bill which would establish a national minimum legal drinking age of 21. States without a 21-year drinking age would have a proportion of their Federal highway funds withheld by the Department of Transportation.

It is my hope that the Senate will adopt the 21-year drinking age provision forthwith. As a matter of fact, last night it was my hope that we could clear this and get it passed by the Senate, and there is some chance that we can do it yet today.

I intend to support the House provision, which is mirrored in Senator Lautenberg's bill, S. 2719. It is incumbent on Congress to act with dispatch in this matter. I think it would be tragic to debate differences in approach, especially when the strength of public sentiment gives us reason to hope that the States will respond promptly to Federal legislation.

I look forward to hearing the views of our witnesses today on the 21-year-old drinking age and the Federal legislative options. I am also eager to explore other efforts that can be taken by all levels of government and by community organizations to further combat this national problem.

Senator Lautenberg is here. He is a member of the committee, and I do not know whether you would like to make your statement here or from the table.

Senator LAUTENBERG. I will go with my colleague there.

Senator DANFORTH. All right. I have a statement by Senator Hollings for the record:

[The statement follows:]

OPENING STATEMENT BY SENATOR HOLLINGS

I am a strong supporter of stricter drunk driving laws. In 1982, I cosponsored S. 2158, a national drunk driving bill, now Public Law 97-364.

Title I of PL 97-364 provides incentive grants to states which pass stricter drunk driving laws. To qualify for a "basic" federal grant under this new law, a state would have to enact a drunk driving statute which provided at the least:

(1) Raising the drinking age to 21;
(2) Vehicle impoundment for persons driving with a suspended license;
(3) Roadside sobriety checks;
(4) Presumptive 0.08 blood alcohol level; and
(5) Elimination of plea bargaining.

Title II of PL 97-364 provides for establishment of a National Driver Register (NDR). With all states participating, the NDR will serve as a national computerized clearinghouse for information on the driving records of problem drivers. This will make it easier for the licensing state to obtain information concerning the prior driving record (in other states) of an applicant for a license. More than a dozen states have already received incentive grants under the section 408 drunk driving program. Over the last two years, many states have acted to strengthen their drunk driving laws.

On October 20, 1983, the Senate Commerce Committee favorably reported S. 1108, a highway safety bill. Title II of S. 1108 provides for incentive grants to states which raise their legal drinking age to 21. Currently, nineteen states have set 21 as the legal drinking age. If enacted, S. 1108 would be a further step in combatting this problem and would help stop the thousands of deaths and injuries attributable to drunk drivers which occur each year on our nation's highways.

The witness list reflects a wide range of witnesses who have been involved in activities at the federal, state and local level. These groups are to be commended for their efforts in heightening public awareness of this problem.

I would also like to commend the efforts of Senator Danforth and Senator Lautenberg in focusing the attention of the Senate on this problem.

Senator DANFORTH. We have a very distinguished panel of people who have been leaders in this area: Senator Lugar, Senator Pell, and Senator Lautenberg. Senator Lugar, your name is first on the list. I am delighted you are here.

STATEMENT OF HON. RICHARD LUGAR, U.S. SENATOR FROM INDIANA

Senator LUGAR. Thank you, Mr. Chairman.

I am very pleased that the subcommittee has called these hearings and I am grateful for the opportunity to testify. These hearings are particularly well timed, given the events of the past week and the momentum which has been established. For the first time, one House of Congress has reached a consensus that the price we have paid for differing drinking ages among the States is simply too high. It is a consensus which I hope will be shared by the Senate.

By this time, we are all too familiar with the grim statistics: 25,000 persons die each year in alcohol-related crashes; 5,000 teenagers per year, 14 per day, die in such crashes. While drivers under 21 years of age comprise about 8 percent of licensed drivers, they are involved in 20 percent of all alcohol-related fatalities.

Perhaps we have become so familiar with these numbers that we have lost sensitivity to the tragedy and suffering that each of these cases represents. Perhaps it takes a Candy Lightner or a loss within our own families to remind us of the enormity of what has become a national epidemic.

I wholeheartedly agree with those who argue that a uniform drinking age alone will not solve the problem. Much more is needed in terms of local law enforcement, educational efforts, sentencing reforms and changing social attitudes. Many States are responding admirably to those needs.

However, the evidence is irrefutable that there exists a strong correlation between the minimum drinking age and the incidence of alcohol-related fatalities. We should not let the perfect be the enemy of the good. We should pass legislation to encourage States to adopt a uniform drinking age of 21 years.

Even though 23 States have chosen to enact a 21-year drinking age, the vast majority of our State borders remain "blood borders." With the defeat of the "21 bill" by the New York Legislature a few weeks ago, it is clear that not all States will act on their own.

Last October, I introduced a bill to enact a uniform drinking age of 21 years. My bill was the companion measure to H.R. 3870, sponsored by Representative James Florio of New Jersey, which was reported favorably from the House Energy and Commerce Committee. Our approach was one of a variety of proposals to address the problem of differing State drinking ages and the disproportionate number of young people involved in drunk driving fatalities. My objective in sponsoring S. 1948 was to initiate Senate consideration of a tangible proposal to save lives.

I was pleased to see a consensus bill evolve in the House which was endorsed by every sponsor of a "21 bill." The Howard consen-

sus bill was reintroduced in the Senate by my colleague from New Jersey, Senator Frank Lautenberg. I find it to be an eminently reasonable, modest approach which deserves the same broad, bipartisan support it received in the House.

It allows each State to make its own decision on whether to raise the drinking age. However, those States which do not adopt a 21-year minimum drinking age within 2 years will lose 5 percent of their Federal highway construction funds in fiscal year 1987 and 10 percent of these funds in fiscal year 1988. These funds would be withheld until the drinking age is raised, at which time 15 percent would be returned, or until the highway authorization period ended and the funds expired.

This consensus bill allows States to act before any penalty is invoked. It would not withhold any highway safety money and only a modest percentage of construction money. However, the message that it will send to the States is a strong one. The number of lives lost each year to drunk driving has become a national concern which we cannot ignore. Surely the national interest in protecting the lives of our young people outweighs the States' interest in setting a drinking age lower than 21 years.

Mr. Chairman, the House of Representatives has taken a strong stand, backed by 77 percent of the American public who believe that the national drinking age of 21 will save thousands of lives. I am delighted the administration announced its support for this proposal. I am here today to pledge my strong support for S. 2719 and to express my willingness to work with all interested Senators on this issue.

I thank the chairman and the subcommittee for this opportunity to testify.

Senator DANFORTH. Senator Lugar, thank you very much.

Senator Pell.

STATEMENT OF HON. CLAIBORNE PELL, U.S. SENATOR FROM RHODE ISLAND

Senator PELL. Thank you very much, Mr. Chairman. It is a real pleasure to work with you again to advance the cause of highway safety. I recall with pleasure our partnership 2 years ago in securing passage of the legislation which provided the original impetus for many States to strengthen their drunk driving laws.

What brings us together this morning is really the need to follow through on that previous legislation and better protect our children and all young people from the threat represented by drunk drivers. Despite the tremendous progress we have made in reducing highway deaths, the fact remains that our young drivers continue to be slaughtered in drunk driving accidents.

Alcohol-related highway fatalities are the leading cause of death in the 16- to 24-year-old category, in which life expectancy has actually declined over the past 20 years. In other words, the life expectancy of a youngster between 16 and 24 is less today than it was 20 years ago. This national embarrassment, disgrace, is due in great measure to the fact that a number of States lowered their minimum drinking age to 18 years of age.

While many of us sympathize with the natural desire of young people who are old enough to vote and old enough to serve in the military to also enjoy the privilege of purchasing alcohol, the simple fact is that the 18-year-old drinking age has been a disaster in terms of highway safety. It has helped to make alcohol available to even younger and more inexperienced drivers, and it has led to a startling increase in fatalities involving young drivers, who account for only about one-fifth of all licensed drivers but who are involved in nearly half of all nighttime highway fatalities.

The President's Commission on Drunk Driving studied this problem for 1½ years listening to testimony at public hearings held all over the country. In its final report to the President, the Commission identified a uniform 21-year-old drinking age as the most effective single measure to permanently reduce drunk driving fatalities.

Since the Commission issued its report last Christmas a number of States, including, I am glad to say, my own State of Rhode Island, have acted to raise their minimum drinking age to 21. There are 23 States today with this law on the books, and there are 9 others where only beer and wine can be purchased by persons under 21.

I think it is time for Congress to ensure that all States enact a minimum drinking age of 21. This uniformity is particularly important in areas, such as along the Northeast corridor, where varying drinking ages encourage our young people to drive even longer distances simply to be able to purchase alcohol legally.

The bill Senator Lautenberg and I have introduced would provide each State with a 2-year grace period to conform with the uniform law before any highway construction funds would be at risk. I would point out that this approach is identical to the House bill sponsored by Congressman Howard. This legislation has been strongly endorsed by the administration and by Secretary Dole.

Mr. Chairman, after years of apathy the American people have spoken. They want to see the slaughter on our highways ended. In community after community, grassroots groups have been formed to lobby for tougher laws. The results so far have been encouraging. Highway deaths are at their lowest level in over 10 years, but we still have a long, long way to go. Achieving a uniform national drinking age, as embodied in Senator Lautenberg's legislation, is the most important step still before us, and I very much hope that with your support and leadership we will quickly enact the Lautenberg-Pell bill into law.

Senator DANFORTH. Thank you, Senator Pell.

Senator Lautenberg.

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Good morning, Mr. Chairman. I am pleased to appear with my colleagues, Senators Pell and Lugar, to address the issue of how we can rid our Nation's highways of young drunk drivers. The Senate has the opportunity, perhaps even today, to start to save lives of so many young people.

Last November, the Presidential Commission on Drunk Driving recommended as one of its principle findings the establishment of a

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uniform minimum drinking age among the States. In February, I introduced S. 2263, the Uniform Minimum Drinking Age Act, to implement the Commission's recommendation.

A revised version of that bill, S. 2719, which passed the House of Representatives just last week as an amendment sponsored by Congressman Jim Howard of New Jersey, has now been endorsed by the White House. Enactment of this legislation by the Senate would, according to the National Transportation Safety Board, save more than 1,000 young lives per year.

As you know, Mr. Chairman, S. 2719 is designed to encourage all States to raise their minimum drinking age for the purpose and public possession of alcoholic beverages. After that time, States which have not raised their minimum drinking age to 21 would have 5 percent of their Federal highway aid withheld.

If at the end of the following year they have not raised their drinking age to 21, another 10 percent would be withheld. Once a State has taken action to raise its drinking age to 21, it would be reimbursed for any funds withheld under this provision.

Mr. Chairman, this bill employs a mechanism which has been successful in achieving other Federal policy goals. It employs the same mechanism that was used to encourage the establishment nationwide of the 55-mile-per-hour speed limit. That law saved lives. This law will save lives, too.

The statistics are compelling. Over the last 75 years, the life expectancy of every age group has increased except for one, the 15- to 24-year-old age group. The principal killer of these young Americans is drunk driving. Those under 21 make up 10 percent of licensed drivers, but they make up over 21 percent of those involved in alcohol-related fatalities. The combination of alcohol, driving, and youth is deadly.

The dramatic and positive impact of raising the drinking age has been demonstrated in my State of New Jersey. In 1974, when New Jersey lowered its drinking age to 18, fatalties in the 18 to 21 age group tripled. In 1983, when New Jersey raised its drinking age again to 21, fatalities in this age group were cut almost in half.

In New Jersey, however, we also have the ugly phenomenon of border slaughter. Young people from New Jersey cross over the border to New York, where the drinking age is 19, to drink. Too many times they never make it home. This tragedy is repeated across the Nation, including, by the way, right here in Washington, where the drinking age in the bordering States is substantially higher. In Illinois, the border with Wisconsin is called blood border. Idaho and Washington share the same problem.

The Insurance Institute for Highway Safety studied nine States which raised their drinking age to 21. It found that in eight of those nine States increasing the drinking age resulted in a 28-percent decrease in nighttime fatalities involving 18- to 21-year-old drivers.

It is time to put an end to this carnage by passing S. 2719. Mr. Chairman, in developing this legislation I have received invaluable support from many quarters. Here in the Senate, Senator Pell joined me as my prime cosponsor on S. 2719 and has worked hard and long for its enactment. The efforts of Senator Lugar and yourself, who originally supported alternative approaches, have been es-

sential in shaping a consensus in the Senate behind this bill and in enlisting the President's support.

Today we will hear from a coalition called Save Our Students, who rallied yesterday on the Capitol steps to support this bill and other efforts to stop drunk driving. We will also hear from a panel of activists from New Jersey. These citizens, many of whom have suffered personal loss due to the combination of alcohol and driving, are the real force behind our efforts.

Candy Lightner of MADD, the national PTA, RID or Remove Intoxicated Drivers, the National Safety Council, the National Council on Alcoholism, and many other supporters around the Nation are responsible for the momentum behind this legislation. I hope we can take swift action to enact it as the law of the land.

A uniform minimum drinking age is a significant step in the war on drunk driving. It is not the solution to the problem. I pledge to work with you, Mr. Chairman, on a broad agenda of auto safety goals.

Thank you for convening these hearings this morning.

Senator DANFORTH. Thank you all very much for your testimony and, more importantly, for your leadership in this area.

We did do a lot in 1982. I am confident that we will do a lot more within the next days, certainly within the next weeks, and that we will pass some legislation. But we are all going to have to put our shoulders to the wheel, and I appreciate your showing up at this early hour after such a late night.

Thank you very much.

Senator PELL: Thank you.

Senator LAUTENBERG. Thank you.

Senator DANFORTH. The next witnesses are Jim Burnett, the Chairman of the National Transportation Safety Board; and Diane Steed, the Administrator of the National Highway Traffic Safety Administration.

Mr. Burnett, would you like to start?

STATEMENT OF HON. JIM BURNETT, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD, ACCOMPANIED BY BARRY SWEEDLER, DIRECTOR, BUREAU OF SAFETY PROGRAMS; AND JOHN MOULDEN, ALCOHOL PROGRAM COORDINATOR

Mr. BURNETT. Thank you, Senator. It is a pleasure to be here this morning before this committee to discuss a problem which continues to plague our Nation, the problem of drunk driving in this country.

Between June 5 and June 10, 1984 the Safety Board initiated three investigations into accidents in which there is evidence of alcohol involvement. In those three accidents there were a total of 14 lives lost and there were other serious injuries. Even though we have made great progress in drawing public attention to the price we are paying due to drunken driving in this country, we have a long way to go and there are many battles before us.

The Safety Board recommended in July 1982 that the States in this country which did not already have a minimum drinking and alcohol purchasing age of 21 adopt such legislation. We are gratified to see the extent to which public policymakers in the country

have come to the same conclusion, and it appears that within the next 2 or 3 years most, if not all, of the States will adopt such legislation.

We have also recommended citizen reporting programs to get the citizens involved in enforcing our drunk driving laws. Those programs that are now in effect in at least 32 States have resulted in the arrest of thousands of drunk drivers that would not have otherwise been apprehended.

We have recommended to the States that they increase their program of general deterrence in two ways: One, by adopting sobriety checkpoints to increase the chance that we will apprehend those drivers who are most apt to be deterred, those who are the marginal drinking drivers, who now usually slip very easily through our enforcement programs.

And also, we have recommended adoption of administrative license revocations so that we can get prompt penalty and withdrawal of driving privileges for those who ignore our drunk driving laws, and do that so that they will be assured they are going to be punished in some significant manner when they do drive drunk.

There is more to be done. We're now looking at the issue of the repeat offender and why this country has been as ineffective as we have in handling the chronic drunk driver. And we are looking at issues of education for the long-term solution, how we change public attitudes about alcohol use and abuse in connection with driving and other transportation activities.

We need to improve the recordkeeping system and the knowledge we have about the extent that drunk driving impacts our country. We only have a few States that have good records of drunk driving involvement. I think that we must have testing of all drivers, both surviving and deceased, in all fatal accidents, not only on the highways but in other forms of transportation, before each community in this country can know the extent to which the price they are paying for drunk driving. I think many of our communities do not realize the cost in terms of lost lives and injuries.

These are some of the programs the Safety Board is encouraging. After my colleague from the National Highway Traffic Safety Administration is able to make her presentation, I would be pleased to respond to questions of the committee.

Senator DANFORTH. Thank you, sir.

[The statement follows:]

STATEMENT OF HON. JIM BURNETT, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

Mr. Chairman, I am pleased to be here this morning to present testimony on behalf of the National Transportation Safety Board on a transportation safety issue of vital importance, and that is the problem of drunken driving on our nation's highways. With me today are Barry Sweedler, Director of the Safety Board's Bureau of Safety Programs and John Moulden, our Alcohol Program Coordinator.

Of all modes of transportation it is on our highways where Americans die, year after year, in numbers higher than any other cause of accidental death in this country, whether transportation related or not. In fact, in the age group 5–34, the single leading cause of death is highway crashes—exceeding other major killers such as cancer and heart disease by wide margins. And of all causes or factors involved in highway deaths, drunk driving is by far the single leading factor.

Over the last several years, victims of alcohol-involved accidents and other anti-drunk driving activists have prompted legislative and program initiatives in most

states to curb drunk driving. Special task forces have been created in at least 41 states to study the drunk driving problem and to revitalize state and local programs. Enhanced Driving While Intoxicated (DWI) enforcement programs and tougher penalties for convicted offenders are being imposed in a number of states.

Yet in spite of this increase in legislative and countermeasure activity, drunk driving continues throughout this country. Roughly the same percentage (53–58 percent) of all highway fatalities each year involve alcohol. In 1983 alone, approximately 22,500 persons died in alcohol-involved accidents. National Highway Traffic Safety Administration (NHTSA) studies of injury-producing and property damage accidents also demonstrate the substantial role alcohol plays in these less severe accidents. Nearly 670,000 persons are injured each year in alcohol-involved crashes and some 1,200,000 alcohol-involved property damage accidents occur yearly.

The tragic consequences of alcohol abuse long have been of concern to the Safety Board. Throughout the Board's history, it has observed the over-representation of alcohol-impaired drivers in fatal highway crashes. We have issued safety recommendations of federal, state and local governments, as well as to private organizations, focusing on both specific causes of individual accidents as well as on the general factors which lead to alcohol-involved accidents on our highways.

Most recently the Board has been active in promoting actions we believe are needed to significantly reduce alcohol-involved highway accidents.

For example, on Juy 22, 1982 the Safety Board called upon all states that had not already done so to raise the minimum legal age for drinking or purchasing all alcoholic beverage to 21 years. We came to this recommendation after investigating a series of catastrophic accidents involving under 21 drinking drivers, as well as evaluating a substantial body of research documenting the strong relationship between increasing the minimum age and a reduction in alcohol-related deaths among young drivers in the affected age group. Let me describe one of the accidents we investigated because I believe it illustrates the type of tragic errors that all too often result when young drivers drive under the influence of alcohol.

About 2:18 a.m. e.s.t. on March 14, 1982 at a railroad/highway grade crossing on Herricks Road in Nassau County, New York, a southbound van, occupied by ten teenagers, was driven around a lowered automatic gate with flashing lights onto the main line tracks of the Long Island Railroad and into the path of an oncoming train. Nine of the ten occupants were killed and one passenger was critically injured. The blood alcohol level of the 19-year-old male owner and apparent driver of the van was .09 percent by weight. New York law determines that a blood alcohol level of .06 to .09 is evidence that the driver's ability is impaired. A level of .10 is considered to be "intoxicated." The minimum legal purchase age for all alcoholic beverages in the State of New York at the time of the accident was 18 years.

This was one of four sample accidents the Safety Board investigated involving young drinking drivers in the 18- to 20-year-old age group. In these four accidents alone there were 30 fatalities and 15 injuries.

Increases in the minimum legal drinking age have had a direct effect—a demonstrable reduction in alcohol-related deaths and injuries among our nation's youth. By restricting the privilege to purchase or consume alcoholic beverages, the 21 year old minimum legal drinking age has helped reduce the tragic consequences of drunk driving. Since the Safety Board made its recommendation in July 1982, seven states have raised their minimum age to 21; one to age 20; one to 19; three to 19 for beer and 21 for distilled spirits; one to 20 for beer and wine and 21 for distilled spirits; and one to 21 for nonresidents and 19 for residents. Interest in the age 21 issue remains high, and most states that have under 21 age limits are expected to consider minimum age bills in this or next year's legislative sessions. Tennessee Governor Alexander just this week signed a bill raising the drinking age to 21, bringing the total to 23 states at age 21.

Also, in September 1982 the Safety Board recommended that all states implement citizen awareness and drunk driver reporting programs such as "REDDI" (Report Every Drunk Driver Immediately).

REDDI programs have provided direct assistance to law enforcement efforts to detect and apprehend drunk drivers. With the aid of the motoring public, the detection capabilities of police have been expanded and the deterrent effect of DWI enforcement programs has been increased. Since the Safety Board recommended to the Nation's Governors that they adopt REDDI-type programs, 12 additional states have adopted such programs. As of August 1983, 18 states had REDDI programs which have reported receiving 49,719 citizen calls. resulting in 12,070 contacts with motorists and leading to 7,662 DWI arrests (63.5 percent of contacts).

In our continuing search for additional measures to address the drunk driving problem, the Safety Board has examined state and local programs, studied efforts in

other countries and reviewed the findings of numerous experts in the field of alcohol and highway safety. As a result, we have come to several conclusions as to where we as a nation should focus our efforts to reduce drunk driving.

Clearly both short and long-term solutions are needed. However, we could argue that measures to reduce the real and present danger from the literaliy thousands of drunk drivers now on our roads would command our highest priority. The 70 deaths and 1,800 injuries Americans suffer each day due to drunk drivers demand that actions be taken that can produce an immediate reduction in the number of alcohol-related deaths and injuries.

If drunk driving is to be reduced significantly in the short term, motorists must be convinced that there is a strong likelihood they will be arrested and penalized if they drive drunk. Most experts agree that many drunk dirivers persist in their behavior because they have a perception of low risk of arrest and penalty. In a recent nationwide telephone survey, between ¼ and ⅓ of the drivers who drink say they believe the chances of being caught and punished are not great enough to deter them from driving after drinking too much. While the rate of drunk driving arrests depends largely on the aggressiveness of local law enforcement efforts, estimates of the probability of arrest vary from as high as 1 in 200 drunk drivers to only 1 in 2,000.

Unfortunately, the impact of increased enforcement efforts also can be blunted by lengthening court backlogs, particularly as the judicial system struggles to impose the toughened penalties which have been enacted recently by state legislatures. The greater the penalty, the more the defendant is provoked to resist by engaging lawyers, demanding jury trials, and other procedures which cause court delays. This increased pressure on the courts can lead to compromises by prosecutors and judges which translate into pleas bargaining and pretrial diversion programs. Such processes frequently result in the failure to convict on the DWI charge. Thus, even in the unlikely event of an arrest, the offender has a good chance of avoiding most of the negative consequences of his or her offense.

Because of these problems the Safety Board is monitoring the law enforcement, judicial and rehabilitation systems in several states and localities with regard to their treatment of the drunk driver. The purpose of this activity is to determine if there are deficiencies in these systems which allow DWI offenders to repeat their offense and which help to create the impression among many drivers that they can drive after drinking with impunity.

State and local programs must concentrate on increasing the perceived likelihood of arrest and penalty among those who drive drunk. In the vernacular of safety experts, they must maximize the "general deterrence" effects of their programs.

In our most recent effort the Safety Board has recommended that states adopt two drunk driving countermeasures which we believe have the potential to do just that—dramatically increase deterrence of drunk driving.

On April 3 of this year the NTSB recommended that all states implement the use of sobriety checkpoints and prompt, administrative revocation of drivers' licenses as integral parts of their DWI enforcement and penalty programs.

Police agencies in approximately 21 states are using or have used sobriety checkpoints. These checkpoints can achieve a high deterrent effect because every motorist (out during the late weekend night when checkpoints generally are used) is potentially subject to being stopped, and they also preclude drunk drivers from assuming they can avoid police detection by simply driving "cautiously."

Checkpoints are not substitutes for traditional patrol techniques but are a highly visible additional procedure for increasing deterrence. We have found that public support, especially in jurisdictions using sobriety checkpoints, is quite high.

While motor vehicle administrators historically have had ample statutory authority to revoke or suspend the licenses of drivers who pose a threat to the public, these administrators traditionally have been conservative in the use of that power. The result has been that most motor vehicle departments take no action to suspend licenses of drivers who violate drunk driving or implied consent laws until they receive a formal notice from the court of the conviction of the individual for a drunk driving or implied consent offense. Moreover, many of those who take a chemical test and produce a result over the legal limit also will fail to lose their licenses because of court procedures which permit reduction in charges or pretrial diversion.

We have thus allowed a situation to develop in this country where known drunk drivers, those arrested for DWI and found to have illegal blood alcohol concentrations, are being allowed back on our roads to drive—sometimes for as long as a year—until a court trial can be held. And as Marge Charleville from St. Louis and Laura Lamb from Maryland know quite well—these drunk drivers often drive drunk again with a valid permit in their pockets, resulting in more deaths and inju-

ries. That is why the Safety Board also recommended that states should adopt prompt administrative license revocation procedures (also known as administrative per se) as some 21 states already have done.

The administrative revocation procedure is quite simple. Upon arresting a drunk driver and obtaining a blood or breath alcohol concentration in excess of the state limit (typically 0.10 percent), the police officer takes the offender's driving permit. A temporary permit (typically for 7–30 days) is given and the offender can request an administrative hearing on the revocation. However, when the temporary permit expires the DWI offender can no longer drive. His or her permit is revoked for ninety days (typically) regardless of the outcome of the DWI offense in the courts.

The effects of this procedure are two fold—dangerous drivers are removed from the roads more quickly and the certaintly of receiving a penalty for drunk driving is dramatically increased.

While it is difficult to isolate the effects of these two countermeasures on alcohol-related crashes alone, the Safety Board found relevant evidence from the State of Delaware which employs both sobriety checkpoints and administrative license revocation countermeasures.

Delaware is one of the few states which tests nearly all fatally-injured drives for alcohol. When the number of drivers who were fatally injured and tested for alcohol was added to the number of surviving drivers in fatal accidents who were charged by the police with drunken driving (and also tested for BAC), the number of drinking drivers (BAC greater than 0.05 percent) in fatal accidents decreased by 19.1 percent from 1982 to 1983. This reduction is based on known BAC levels and is not subject to the biases which sometimes occur in police judgments regarding whether a driver was drinking. While more detailed analysis of accident data over a number of years will be required to confirm that this change can be attributed to the new law, this reduction in the number of accident-involved drinking drivers is impressive.

Age 21, REDDI programs, sobriety checkpoints and administrative revocation are the most recent Safety Board recommendations to combat drunk driving. These ar measures which we believe are among the most important states can adopt to reduce drunk driving in the short term.

In the long term, a societal norm must be established that makes drunk driving socially unacceptable behavior. Achievement of such a goal is by nature a slow and gradual process requiring decades of effort. The focus for such an effort must by our nation's youth. Through long-term prevention/education programs in our schools and within our communities, responsible attitudes toward the use of alcohol and driving must be established and reinforced. The Safety Board is concerned that such prevention/education programs may not be receiving the emphasis in our states and localities that they deserve. Therefore, we intend to begin a review of alcohol abuse prevention/education programs to determine if specific Safety Board recommendations in this area are warranted.

Mr. Chairman, I believe there to be no greater threat to transportation safety than the drunk driver. Drunk driving is an epidemic that plagues our nation. I have sketched for you today several countermeasures the National Transportation Safety Board believes should be an integral part of every states' comprehensive alcohol safety program. These measures are by no means sufficient unto themselves. We must all continue our fight at the local, state and national levels, as individuals and as members of concerned organizations, to rid our highways of this persistent tragedy. I pledge to you and this Committee that the National Transportation Safety Board will continue to do its part.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. You advocate State establishment of a minimum legal age of 21 years for the purchase and consumption of alcoholic beverages. Do you have any views as to the best way to encourage States to set a 21-year drinking age?

Answer. I continue to believe that States' should adopt age 21 for the simple reason that it saves lives.

The research on this issue is remarkably consistent. In study after study, when the drinking age is raised crashes in the affected age group are shown to decrease. In a nine state study conducted by the Insurance Institute for Highway Safety, researchers found an average 28 percent decrease in night time fatal crashes among affected youth.

Public sentiment on this issue is remarkably consistent. National polls by Gallup, NBC News and USA Today report from 70 to 77 percent of respondents support age 21.

What troubles me about the approach Congress has adopted is that I fear that state age 21 laws, adopted under the threat of economic sanction, will not be as effective as they would if they were adopted in order to save lives. In some states the age 21 law may be seen as primarily a money saving rather than a life saving measure. The result of such a posture and the source of my concern is that age 21 laws might, therefore, be afforded a lower priority for enforcement.

Question. Do you have any statistics which demonstrate the effectiveness of sobriety checkpoints in reducing drunk driving?

Answer. Yes, we do. I am enclosing a copy of a recent NTSB Safety Study—"Deterrence of Drunk Driving: The Role of Sobriety Checkpoints and Administrative License Revocations" which presents evidence supporting the effectiveness of sobriety checkpoints.[1] Perhaps some of the most impressive evidence comes from the State of Delaware which uses both countermeasures. They report a 17.3 percent decline in alcohol-involved fatal accidents and a 21.9 percent decline in alcohol-injury accidents the year after these two measures were adopted. However, some of this decline is most certainly due to factors other than these countermeasures alone.

Question. Do you favor elimination of plea-bargaining in drunk driving cases?

Answer. Yes, I do. But we must be realistic in our expectations. Even those courts that are firmly opposed to plea bargaining are hard pressed to handle the tremendous case loads of DWI cases presented to them. Without added resources our local courts are finding it difficult not to succumb to the plea bargain to relieve this pressure. The Department of Transportation has incidently, recently initiated a study of the impact and effectiveness of anti-plea bargaining statutes. This study should indicate how well the states to be studied are coping with this pressure.

In spite of these difficulties our goal is clear and achievable. Plea bargaining has no place when it comes to the serious crime of drunk driving. As a former judge I know that all too often defendants can appear to be first time offenders (and therefore subject to lesser penalties) simply because prior DWI's offenses were reduced and not shown in their records.

States are now trying a number of approaches to handle the plea bargain problem ranging from out right bans to restrictions designed to limit this practice. States such as Maryland, New York and others that have "two tiered" laws or lesser-included alcohol offenses (i.e. Driving While Intoxicated/Driving While Impaired) are able to restrict plea-bargains to no less than the lower offense. other States with a single level DWI offense (e.g. Florida) have sought to restrict plea-bargaining by prohibiting charge reductions where the BAC at arrest exceeds 0.20 percent.

Senator DANFORTH. Ms. Steed.

STATEMENT OF HON. DIANE K. STEED, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Ms. STEED. Good morning, Mr. Chairman. I am very pleased to be here to testify, and before I begin my formal statement I would like to say, on behalf of Secretary Dole and myself, I would like to thank you for your personal leadership in the highway safety area over the last few years.

We have not always agreed on every single issue. Nonetheless, your leadership in especially the drunk driving area with getting the incentive grants for us a couple of years ago and keeping these issues in the public eye, which is after all very important if we are going to change society's attitudes, are very much appreciated. We want you to know that.

Senator DANFORTH. Thank you.

Ms. STEED. Mr. Chairman, Senator Lautenberg, in 1983 more than 22,500 people lost their lives in alcohol-related crashes. Thousands of these were young people. In their immediate and devastat-

[1] This report has been retained in the committee files.

ing effects, alcohol-related crashes represent the most tragic and senseless threat to public health in America today.

Motor vehicle crashes, especially those involving alcohol, are the leading cause of death among teenagers. Persons 18 to 20 are more than twice as likely as the average driver to be involved in an alcohol-related crash. You have heard these statistics before, but I think they are worth repeating.

While teenagers represent only 7 percent of licensed drivers in this country, they account for 15 percent of all alcohol-involved crashes. Based on the data we have, we find that almost 60 percent of the fatally injured drivers under 20 years of age have been drinking before the crashes that kill them.

Fortunately, however, there is something we can do to stop this senseless slaughter. We can raise the drinking age in all States to 21.

Yesterday at a Save Our Students rally on the Capitol steps, the Secretary announced the administration's support for a Federal requirement that would withhold 5 percent of a State's highway fund allocation in 1987 and 10 percent in fiscal 1988 if it has not enacted a 21-year drinking age. States would receive the funds withheld as soon as they enacted a 21-year provision. This sanction sends an effective message: Americans will no longer tolerate drunk driving.

We know that raising the drinking age to 21 works. New Jersey, for example, raised its drinking age to 21 in 1983 and experienced a 26 percent reduction in nighttime fatal accidents among 19 and 20-year-olds that year.

In all, we now have 23 States that now have age 21 laws, with Tennessee adding theirs just this week. Since last fall, four States did raise their drinking age. But we are very concerned that the momentum appears to have stalled. Efforts to raise the drinking age to 21 failed in 19 other States this year alone.

The resulting checkerboard of minimum drinking ages which differ from State to State may be creating what we now know as "blood borders," where young people drive across the State lines to drink. In order to protect all Americans, we must increase the drinking age to 21 in all States, and we must all work together to get the job done.

While raising the drinking age is critical, that alone is not enough. A broad-gauged effort is required. Of vital importance to this effort is the section 408 alcohol incentive grant program. We have approved grants so far to 15 States. Several of these States have already experienced dramatic reductions in their alcohol-related crashes. For example, North Dakota, the very first State to qualify for a grant, experienced a 54 percent reduction in alcohol-related fatalities in the first 6 months of 1984 compared to the same period in 1983.

Delaware, the second State to quality, reduced its alcohol-related deaths by 8 percent and injuries by 26 percent in 1983 compared to 1982.

We have seen a tremendous consciousness-raising across America. This must be followed with action by local communities and individuals to rid our neighborhoods of the menace of drunk driving. Our society will have to alter deep-seated social patterns. We must

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change the societal attitude toward drinking and driving. We know this will not happen easilly, nor will it happen overnight.

But with the coordinated efforts of individuals and groups at all levels, we know it will happen. We have got to persuade drivers that the risk of arrest for driving under the influence is high and that sanctions will be sure and swift. We must involve citizens throughout the community, police officers, judges, and alcohol treatment people, safety activists, press, teachers, businessmen, all the groups that we can think of, if we are going to get the job done.

Much more must be done to encourage responsible behavior among young drivers. We have begun to work with several target groups, such as graduating seniors, who are prone to mix drinking and driving.

In March we sponsored a national conference in Springfield, IL, for Project Graduation, an effort to translate the successful efforts of States such as Maine, which had no graduation fatalities in 1983, into a nationwide program. From 6 States in 1983, the program has grown to 35 States this year, with local efforts in hundreds of communities.

In a related effort, the Students Against Drunk Driving chapters are springing up rapidly in schools across the country. The latest figures I have show that we have some 7,000 chapters.

To enhance the effects of programs such as Project Graduation, we have just begun a new public service campaign to combat drunk driving. The President kicked off the campaign on May 14 with a ceremony in the Rose Garden, and because we had a very famous personality in Michael Jackson, who donated his efforts to our commercial, we believe it is going to be very highly effective in capturing the attention of young people and helping to change their habits.

We believe these efforts are paying off. Alcohol-related deaths last year were about 3,000 below the year before. The percentage of alcohol involvement in fatal crashes fell from 58 to 53 percent. We enjoyed the safest New Year's holiday in 35 years. And these just symbolize, I think, the changing awareness in the public attitudes toward the dangers of drinking and driving.

This is cause for hope, not for complacency. I cannot emphasize strongly enough how much this beginning means to us and how much we need to work together to continue this momentum. I am very pleased to hear that you are moving the legislation quickly.

We too would be very happy to answer any questions you have.

Senator DANFORTH. Thank you very much. I think that you have put your positions well, and it is your view that the present situation operates as kind of an incentive for kids to both drink and drive. That is the way it works now. If they live in a State where it is a 21-year-old drinking age and they live next to a State with an 18-year-old drinking age, they will drive perhaps fairly long distances in order to get a drink. After they get the drinks they will drive back.

Therefore, it has a rather perverse effect when you have the present checkerboard situation.

Ms. STEED. That is right. The statistics we showed show that, for example, in Washington and Idaho over several years we believe,

1979 to 1981, there were 21 fatalities on the routes that cross that border, and of those one-half of them were below the age of 21.

Senator DANFORTH. I want to congratulate the administration for its flexibility in this. I know there have been a variety of views as to how to accomplish this objective. A lot of people have pointed out the problem, including the administration. A lot of us have had different approaches to it.

There have been three that have been represented today—four, I suppose, the administration's position and then the various bills that have been introduced by Senator Lugar, Senator Lautenberg, and myself. I think we all have to try to figure out what the common approach is going to be, and we have settled on that.

I want to congratulate the administration on its flexibility in being willing to put something together that we can all agree on.

Senator Lautenberg.

Senator LAUTENBERG. I have no questions. The testimony is excellent and speaks directly to the cause. I do want to commend both Mr. Burnett and Ms. Steed for the work that they are doing. The National Transportation Safety Board has done an excellent job in its work on alcohol-related auto fatality research.

I appreciate your being here, each of you, and welcome your assistance in turning this intent of ours into legislation.

Senator DANFORTH. Thank you very much.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. You noted in your testimony that DOT has approved incentive grants for 15 States, as authorized by the 1982 drunk driving legislation. Do you believe there are any specific ways in which this incentive grant program could be improved?

Answer. To date, 22 States have applied for incentive grants and 15 have qualified.

The two criteria that have been viewed by some legislators as unduly stringent are those requiring a mandatory license suspension for first offense and a prompt suspension of license within 90 days of arrest.

Regarding mandatory license suspension, some legislators view this criterion as one which threatens loss of job for those convicted and are resistant to enact such legislation. The prompt suspension criterion has become difficult to meet because of court case backlogs in many States.

These criteria are tough, but were carefully crafted on the basis of two public hearings and 146 comments for the record. The original concept was for a 90 day loss of license—no hardship/occupational license allowed. During Congressional deliberation, this was reduced to 30 days plus 60 days where a hardship license was allowed under State guidelines. The prompt suspension time was defined as an average of 90 days from arrest for the basic criteria and an average of 45 days for the supplemental criteria.

We believe that the program as conceived by Congress fulfills the basic goals of the nucleus of a comprehensive alcohol program and should not be modified at this time. Any changes at this time in the license suspension criteria or the definition of prompt suspension could lead to a loss of credibility of the Federal leadership in the drunk driving issue among those States who have qualified and among the many citizens and organizations supporting the anti-drunk driving movement.

Question. Other than enactment of 21-year drinking age legislation, what do you believe would be the most effective anti-drunk driving measure?

Answer. We believe that there is no single most effective anti-drunk driving measure. We believe that it is the synergistic effect of many activities, actions, legislation, and projects which creates a successful alcohol program.

The suspension of driver's licenses for conviction of DWI has the greatest potential for impact on reducing alcohol-related crashes. The use of driver license suspen-

sion and revocation, when supported by an adequate public information campaign, is also one of the more effective deterrence countermeasures. Recent research in three States, California, Washington and North Carolina has revealed a long lasting significant effect as a result of license suspension. In each study, suspension/revocation of licenses was found to be more effective than other control actions taken, and in California was revealed to reduce violations and/or crashes for up to four years.

However, we believe that we must continue to encourage States to develop alcohol countermeasures which are based on the concepts of general deterrence, community focus, system approach, financial self-sufficiency, citizen support and prevention/intervention. To reduce the drunk driving problem in both the short-term and long-term requires all of these elements.

Within specific countermeasure areas, i.e., enforcement, driver licensing, etc., there are techniques and procedures that have been found to work. For example, deploying a selective enforcement patrol strategy will maximize the arrest productivity of police agenices. Use of roadside sobriety checkpoints increases the visibility of enforcement efforts and tends to focus attention on the drunk driver enforcement program thus creating public awareness and deterring a number of drivers. Using the preliminary breath testers (PBT's) has been shown to increase arrests, lower the average blood alcohol concentration of arrests and produce a higher quality of arrests. Training programs for program coordinators, police, judges, prosecutors, driver license officials, public information specialists and private sector groups, etc., have been shown to improve the quality and efficiency of operations.

Increased enforcement programs when accompanied by public information can have significant impact in the short-term, but must have the support of the other countermeasures to sustain the impact, e.g., sanctions, license suspension, system coordination, self-sufficiency, etc.

Comprehensive community-based programs that focus on deterring the majority of drunk drivers who have never been arrested, rather than treating the few who are arrested, have the greatest potential for reducing alcohol-related crashes in the short-term.

Citizen support programs that generate community citizen support for comprehensive programs have increasingly provided the necessary public and political support to raise the priority of the drunk driver problem to a sufficient level where a complete assessment of the drunk driver problem at the community level can be accomplished. This activism has created an atmosphere never before experienced in the United States. This activism is responsible for renewed emphasis and implementation of task forces to deal with the drunk driver problem, and will be reinforced and expanded by the activity of the National Commission on Drunk Driving.

Prevention programs such as Project Graduation, Safe-ride and other youth peer programs have been highly effective in reducing alcohol related crashes.

Senator DANFORTH. Next we have a panel consisting of: Dr. Morris Chafetz, a member of the Board of the National Commission Against Drunk Driving; Ms. Candy Lightner, president of Mothers Against Drunk Drivers; Mr. William Orr, administrative assistant of Students Against Driving Drunk; and Ms. Kathy Ozer, legislative director, U.S. Student Association.

Dr. Chafetz, will you proceed, please.

STATEMENT OF DR. MORRIS CHAFETZ, MEMBER OF THE BOARD, NATIONAL COMMISSION AGAINST DRUNK DRIVING

Mr. CHAFETZ. Thank you, Mr. Chairman.

First, I would like the Chairman's permission that, with my formal testimony, I would like to add some biographical data and some information about the drunk driving programs of the health education foundation I head, so that you can understand our organizational situation.

Senator DANFORTH. Fine.

Mr. CHAFETZ. Thank you.

Second, I would like to remind the committee, since I have been a little bit removed from the actual Washington scene, that I was the founding director of the National Institute on Alcohol Abuse

and Alcoholism and served in that position for 5 years. I have been involved in the problems of alcohol and alcohol-abuse for 30 years.

I suspect, Mr. Chairman, that I feel in the testimony that I wish to present my remarks to the way the young man who was, I guess, 8 years old in Aesop's fable of the emperor's golden clothes felt when he cried out, as the whole populace was admiring the golden clothes of the emperor: But he has nothing on.

The reason I refer to that is on page 5 of the Presidential Commission on Drunk Driving, where I was privileged to be the chairman of the Education and Prevention Committee, we had the statement:

> A word of caution. The Commission believes that to achieve a lasting impact no one element of this program can be enacted by itself. A coordinated, decade-long commitment to a multi-faceted approach must be taken by every state and community. No one suggestion or recommendation and no single aspect of the system can produce the results that the nation desires.

And one of the things that has become obvious as we listen to what has happened is that people now refer to the Presidential Commission as the Presidential Commission, not on Drunk Driving, but on 21. And I would like to call to your attention the following statistics. In 1962, only 2 percent of the age population of this country between 14 and 26 had ever used marijuana. After 15 years of all kinds of educational and punitive efforts, in 1979, according to Government statistics, in that age population between 14 and 26, 65 percent of that age population had had one or more experiences with marijuana, 35 percent were regular users, and, more horrifying, street marijuana had increased in its strength by five times.

Do we really believe that if marijuana, that has no age for smoking, no distribution system, nothing in a legal sense, as alcohol does, which we have not been able to control, that we will be able to control the behavior of young people in procuring alcohol? That is one question we must consider.

Second, do we tend to focus so much on the young that we forget the rest of the population? According to the statistics of the FBI for 1982, between the ages of 16 and 19 there are 129,444 drunk driving arrests; between the ages of 20 and 29 there were 626,033 drunk driving arrests; between the ages of 30 and 39 there were 332,556 arrests.

Are we missing the fact that we like to focus in this country on the aberrations of the young and forget the fact that we adults are their models for their behavior? You know as a physician, Mr. Chairman, that the saving of any life is important to a physician, and yet when we hold up these figures of 1,000 lives saved, why has the country not focused on one of the recommendations of the Presidential Commission, that we introduce mandatory seatbelt legislation?

According to the Department of Transportation, over 12,000 to 13,000 lives would be saved with mandatory seatbelt legislation. Are the lives of other people less important than those of young people?

We also have a recommendation that administrative revocation, immediate revocation, take place if someone is stopped and has a blood alcohol level of 0.1.

There is one other recommendation I was unsuccessful in securing through the Presidential Commission, but I will throw it out. Have we considered raising the driving age? Most European countries have a driving age of 18. Why do we not consider that as a possibility?

Thank you for your attention, and when the rest of my colleagues have been finished with their testimony I will be glad to take your questions.

Senator DANFORTH. Thank you very much, Doctor.

[The statement follows:]

STATEMENT OF DR. MORRIS CHAFETZ, MEMBER, NATIONAL COMMISSION AGAINST DRUNK DRIVING

My name is Morris Chafetz and I welcome the opportunity to speak before this Committee in behalf of the National Commission Against Drunk Driving. Having served most recently as Chairman of the Education and Prevention Committee of the Presidential Commission on Drunk Driving, and having worked for a number of years in the field of alcohol and alcohol abuse I am somewhat aware of the need for an ongoing and effective response to this serious social problem.

In making its Final Report the Presidential Commission by a unanimous vote urged the establishment of a national body to monitor the effective implementation of its recommendations. The Commission cautioned that the multiplication of punitive laws without reference to education and prevention programs would not guarantee any long-term solution.

In this decade of the eighties, we have witnessed a significant change in the national mood regarding drunk driving. Citizen action groups have expanded and demonstrated more expertise in their grassroots campaign to remove drunk driving from our highways. The alcohol, motor vehicle and insurance companies have shown a greater willingness to cooperate in public and private sector efforts to find reasonable safety countermeasures. The media have given extensive coverage to stories focusing on the human tragedies resulting from alcohol-related accidents. At long last, the rights of victims and the safety of a highly mobile society have been given a new perspective in the anti-drunk driving projects.

I understand that age 21 was the national minimum legal age for the purchase and consumption of all alcoholic beverages is very much before the Congress presently. The Presidential Commission recommended this measure and the National Commission sees it as a priority item but I want you to know that it was but one of 39 recommendations. Therefore, it must be viewed in the context of the total package of responses to the problem.

Changes in social attitudes must be realized if changes in the law are to prove effective. I am convinced out of my own medical experience, and speaking as a Commission member, that legal and judicial measures will bring only short-term solutions to the drunk driving problem. All elements of society must be enlisted to ensure a behavior pattern that makes drinking and driving socially unacceptable.

Together with the heightened public awareness and concern about drunk driving, it seems to me that the challenge now is to commit ourselves and available resources to this issue for a decade and more. The combination of the public's willingness to participate, the elected officials' demonstration of leadership and the implementation of innovative deterrents can prove powerful allies in remedying this national epidemic.

One remedy we cannot afford is a return to any form of prohibition. We all are acquainted with the disastrous effects of that ignoble social experiment. Drinking is properly a matter of personal choice while driving is properly a regulated privilege. The majority of Americans indulge in both of these activities responsibly and there is no way a free society will give up either, nor should it.

Driving after drinking, however, introduces a different dimension, and this precisely why education must be the key to solve the Driving Under the Influence problem. Stricter laws may get dramatic headlines but they do not strike at the heart of the matter—the personal decision not to drive after drinking.

With the increased citizen interest, enhanced legislation and private sector initiatives over the past few years, we have noticed reductions in the number of alcohol-related accidents and fatalities. The grassroots organizations have developed more skills in addressing the issue and the National Commission believes they should be encouraged.

State and local task forces have urged the consideration of new and stricter laws with the result that in 1983 alone, some 763 bills were introduced and 129 of these enacted in 39 states. That was almost double the number of bills introduced in 1982 (378). The private sector in growing numbers has begun to take seriously the responsibility for their employees beyond the office walls and plant gates. The National Commission has targetted the leaders of Fortune 500 to implement education prevention programs beyond the alcohol-treatment programs that are in place frequently only for management personnel.

Using the network of the Red Cross, Chambers of Commerce and the social, fraternal, education and religious groups throughout the country, the National Commission seeks to broaden the base for its societal message that drinking and driving can no longer be tolerated. Programs must be supported at a much younger classroom age-level than many thought, and too many blindly yet feel unnecessary. No one denies the 'trickle-down' theory of alcohol availability and attitudes, but it is there and more widespread than parents and other adults like to admit.

Yes, 1982 marked the best single year reduction of highway deaths in 40 years with the exception of the oil embargo year of 1974. Almost 5,500 less Americans died on our highways in 1982 than in 1981. The decrease continued through 1983 but at a much smaller rate than in 1982. Taking statistics alone as a measure and I leave to others the analysis of cause and effect—it is obvious that we still have a long way to go when 40–50 thousand are being killed each year and at least 50 percent the result of alcohol-related accidents.

The National Commission has established its own priorities to monitor the recommendations of the Presidential Commission. In seeking to change society's attitudes about drinking and driving, the drinking driver or the impaired driver, from toleration to rejection the Commission recommends nationwide public education and prevention programs with special emphasis on youth. These will be our drivers and drinkers of the future. Mindful of our past neglect in so many areas of alcohol abuse and related problems, I would urge this subcommittee to direct its present efforts to those measures designed to deter drunk driving wherever posible, and to treat and/or punish where necessary.

The Commission sees the potential offenders' social settings as an important vehicle to prevent intoxicated drivers from getting behind the wheel. Family, friends, coworkers and associates should be made aware of appropriate deterrent strategies.

The burden of responsibility for public safety falls not only on the intoxicated person but support elements in the social network and such third party groups as servers, sellers, producers and distribution of alcoholic beverages and hosts. Non-alcholic beverages should be made available at company parties and home gatherings. Education through the media and from influentials in society is vital especially when the message is uniform. Confusion about the effects of alcohol and the amount of alcohol which can cause impairment, point to the need for coordinated programs of public education. Above all, we must avoid giving 'mixed messages' about responsible drinking and responsible driving.

Finally, I would like to mention one swift and certain sanction recommended by the Presidential Commission and now promoted by the National Commission. Administrative per se license suspension. In 20 states any driver registering above .10 BAC has his or her license automatically suspended for 60–90 days regardless of subsequent disposition of the case. Refusal to take the test increases the suspension for up to 180 days. This can be a valuable deterrent to DUI especially where states share information on driver information and violations. No one likes to lose his/her license—not even the drunk driver.

No cure-all remedy will reduce a long-standing social evil but a commitment to a fair and feasible system of countermeasures offers the best hope for a reduction of those frightening losses attributed to drunk driving. We will never end drunk driving but we can endeavor to save yet more lives, those thousands of innocent victims of drunk driving.

The National Commission stands ready to serve this purpose and I stand ready to answer your questions.

Thank you.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. What else should Congress do to enhance state and local drunk driving programs?

Answer. We believe the existing legislation and the most recently enacted legislation dealing with the 21 year old drinking age and modifications to Section 408 of the Highway Safety Act constitute an adequate legislative base for progress in state and local programs.

However, the National Commission Against Drunk Driving strongly urges the Congress to require the National Highway Traffic Safety Administration to annually undertake evaluation of legislation and programs at the state and local level and to report the results of such evaluations to the Congress and the Nation.

There currently exists a void of objective evaluation data on the effectiveness of most drunk driving countermeasures. That doesn't mean they should not be implemented, but it does mean that there exists a need to provide states and communities with objective data on program effectiveness. Currently, Section 408 of the Highway Safety Act requires states to initially meet certain criteria for funding eligibility. No one knows if these four are the most important or most effective activities.

Those states that have met the 408 criteria and have received incentive funding need to be evaluation sites, to determine program effectiveness. Similarly, states that have other programs need to be assessed to determine alternative program effectiveness.

Senator DANFORTH. Ms. Lightner.

STATEMENT OF CANDY LIGHTNER, PRESIDENT, MOTHERS AGAINST DRUNK DRIVING

Ms. LIGHTNER. Thank you, Senator Danforth, for inviting me here today.

MADD has two basic goals: One, to prevent driving while under the influence, that is, saving lives; another is to assist victims of alcohol-related crashes, that is, improving lives. We constantly seek facts about the drinking and driving problems in America so that our programs are based on empirical data, rather than on emotional intuition. Our major objectives are to change public attitudes, to heighten the awareness of driving under the influence, and to establish responsible use of alcoholic beverages.

MADD has asked the major airlines to limit the number of drinks served to passengers. We have contacted the casinos in Nevada and New Jersey urging them to provide free taxi chips to their patrons. We wrote the National Basketball Association and asked them to include alcohol in their current policy penalizing players caught with drugs.

Another major objective is to provide desperately needed services to the victims or survivors of alcohol-related crashes. Our victim assistance program provides crisis intervention and berievement group support. We also take the victim step by step through the adjudication process and educate them as to their rights, to encourage their grief and anger in a positive direction.

Our third major objective is to encourage the passage of laws which will help to prevent alcohol-related crashes through swift, severe sanctions. We feel that the punishment should be realistic and tempered with license restrictions and rehabilitation.

Our chapters work hard to educate our youth. They do this through programs such as safe rides, parent-student contracts, and Project Graduation. The participants in safe rides are told about drunk driving and how to handle a person who is under the influence of alcohol and drugs. The San Fernando Valley Safe Rides Program, created and operated by teenagers, is credited by the Los Angeles Police Department for the 75- to 80-percent reduction in alcohol-related fatalities since its inception last year.

Project Graduation includes special warnings against drinking and driving which are inserted into tuxedo pockets and corsage boxes, poster contests and essays written by students. Our holidays ahead campaign includes holiday vigils, free taxi rides over New Year's Eve, and brochures on how to have a safe party.

Our programs are finally paying off and the bottom line is that lives are being saved. Last year there was a 13-percent decrease in traffic fatalities, the highest decrease in over 20 years.

I would like to address some of Morris Chafetz' comments and tell you he is not speaking on behalf of the National Commission Against Drunk Driving, nor is he speaking on behalf of the Presidential Commission on Drunk Driving. Both of these commissions have many, many objectives. One of the objectives is to raise the drinking age to 21, which is what we happen to be dealing with here today because of the recent bill that was passed by the House.

We on the national level as an organization also work on these other suggestions that Dr. Chafetz has been referring to: administrative revocation, et cetera. However, right now on a priority level for our organization, it is 21.

Senator Danforth has been kind enough to have three hearings in the past couple of years which have enabled us to testify and talk about the issue of drinking and driving, and I would like to express my very deep appreciation on behalf of MADD. I would also like to congratulate you on your support for the 21 sanctions.

I understand, however, that you are offering other amendments to the bill, S. 2719. If these amendments are agreed to and advanced by the House, MADD will support them. If not, our utmost concern is that if these amendments are added without our agreement we may not get 21, child passenger safety, or computerized traffic records.

I really hope that you and everyone else involved in this legislation will move quickly to expedite this bill. You know, the sooner the President signs 21 the sooner we are able to save lives.

Thank you.

Senator DANFORTH. Thank you.

Mr. Orr.

STATEMENT OF WILLIAM ORR, ADMINISTRATIVE ASSISTANT, STUDENTS AGAINST DRIVING DRUNK

Mr. ORR. Students Against Driving Drunk would like to thank you for allowing us to be here today.

By a wide margin, a major public health problem for teenagers in the United States is injuries associated with motor vehicle use. The enormity of the issue is summed up in a new research study by the Insurance Institute for Highway Safety. Warning of the sometimes tragic combination of a teenaged driver and an automobile are common, but the real story goes beyond that.

Starting at age 13, motor vehicle passenger death rates per capita climb sharply compared to passengers of other ages. Motor vehicle related fatalities are suffered by teenagers at more than twice the rate that would be expected on a population basis. According to one institute study, more than 7,000 teenagers lost their lives in passenger car crashes in 1980.

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Ours is a drinking society. We drink alcohol beverages many times, many places, for many reasons. Findings of a national survey of junior and senior high school students indicate that teenage drinking increases with grade until 93 percent of 12th grade boys and 87 percent of 12th grade girls have experience with alcoholic beverages. We assume, therefore, that a large number of teenagers will drink at least occasionally.

Ours is also a driving society, with over 125.4 million licensed drivers in the United States, 13.1 million of whom are under 20 years of age. Teenage social structure places great emphasis on the car and driving, with the driver's license frequently viewed as a "Right of Passage" into the adult world. Through the automobile, the teenager can experience vicarious power and autonomy seldom afforded in other areas of his or her own life.

Thus, we also assume that most eligible teenagers will drive and at times they will be faced with situations involving drinking and driving.

Over the past decade alone, an estimated 250,000 Americans have been killed in alcohol-related crashes, and millions more have been seriously injured, many crippled and maimed for life. Many of those crippled and killed were innocent children.

Drinking and driving is the most often committed violent crime in the Nation and a significant cause of death among our youth. The number one cause of death for Americans up to age 30 is motor vehicle incidents, and over half of the highway deaths are alcohol related. Our youth are being slaughtered on the highway every day. Forty-four percent of all nighttime fatal alcohol-related crashes are caused by the 16- to 24-year-old age group.

This year another 26,000 people are projected to be killed by drinking drivers and about 750,000 seriously injured, at a cost exceeding $5 billion. Clearly, drunk driving is one of the Nation's most serious health problems and safety problems, one which experts say is worsening.

Teenage drivers not only are more in jeopardy than drivers of other age groups, but, less well known, they also contribute substantially to the deaths of other teenagers as passengers. A new research study by Allan F. Williams and Ronald S. Karpf of the Insurance Institute for Highway Safety focuses on the deaths of teenaged passengers and includes these findings:

Teenaged passengers show a high death rate per capita compared to passengers of other ages, the increased rates starting at age 13;

The majority of fatally-injured teen-aged passengers sustain these injuries in vehicles driven by teenagers;

Deaths of teen-age passengers tend to occur in nighttime crashes, especially weekend nighttime crashes.

However, I am pleased today to report to you that there is a growing recognition of the seriousness of this problem. I am particularly pleased that a new and creative program called SADD, Students Against Driving Drunk, has been organized to alert and inform high school students across the Nation about the potential dangers of the misuse and abuse of alcohol as it relates to driving.

The program was founded at Wayland High School in Wayland, MA, in September of 1981 by Mr. Robert Anastas. It has grown in membership from the 1,000 Wayland High School students to over

3 million students representing some 6,000 high schools from all 50 States, DC, and Canada.

The question most frequently asked is, "Why is this program working while so many others have failed?" SADD works because the students have recognized the following facts: Deaths due to drunk driving are the teenagers' No. 1 health problem; It is the teenagers who drink and drive and cause deaths to themselves and oftentimes to their friends: It is the teenagers who are totally unaware of these facts; It is the teenagers themselves who must solve the problem of drinking illegally and drinking and driving.

The SADD program has given students across the country the opportunity to challenge and wage war against their number one enemy—the drinking and driving problem. SADD has four objectives: To help eliminate drunk driving and save lives; To conduct community alcohol awareness programs; To alert students to the dangers of alcohol and driving; And to organize a peer counseling program to help students who may have concerns about alcohol.

An integral part of the program is a mandatory course given for sophomores at the high school, designed to improve the students' knowledge and attitudes about alcohol and drugs and to assist students to plan their behavior in order to reduce their chances of becoming involved in illegal drinking situations.

Another very important part of the SADD program involves the SADD "contract for life" entered into by parents and students. Students pledge to call their parents for advice or transportation at any hour, from any place, if they are ever in a situation where they have been drinking or a person driving them has been drinking.

The parents in turn agree to provide transportation home or taxi fare home, at any hour or any place with no questions asked or no argument given at this time. Discussion at a later date, of course, would be appropriate. In addition, parents agree to seek safe, sober transportation home if they or a person driving them has had too much to drink.

SADD is a proven life-saving program because it is student motivated. They believe in the concept of not drinking and driving. This is a message they are bringing to their fellow teens. The program promotes positive peer pressure.

SADD is the first program of its kind to involve the school, the home and the community in public awareness and community spirit to combat the drinking and driving issue. The program is now being sponsored by governmental, private and public groups in order that the SADD message be spread to communities across the nation.

The slogan of SADD is: If we can dream it, it can be done. And it is being done. National statistics have indicated that since SADD has been on the national level, students from across the country in cooperation with other national and local efforts have helped to reduce the death rate in their age group dramatically. For instance, in 1981 when SADD became a national program there were 11,005 deaths, in 1982 there were 9,757 deaths, and in 1983 from January to May there were 3,118 deaths in the 16- to 21-year-old age bracket.

The SADD national office has joined forces with President Reagan in proclaiming June as Student Awareness of Drunk Driving Month. SADD has urged all Governors, Senators, and Congressmen to join with the students in their areas to observe this important month by participating in appropriate ceremonies and activities throughout the country to educate our young people about the tragic consequences of drinking and driving.

The SADD philosophy is, if the problem of drinking and driving lies with the students, then the solution to the problem also lies with the students. We are convinced that the students of this Nation will rise to the challenge of the crusade of student awareness of drunk driving month and strive to give all of us the safest prom and graduation time this Nation has ever experienced.

Senator DANFORTH. Thank you, Mr. Orr.

Ms. OZER.

STATEMENT OF KATHERINE OZER, LEGISLATIVE DIRECTOR, UNITED STATES STUDENT ASSOCIATION

Ms. OZER. Thank you, Mr. Chairperson and members of the subcommittee. I would like to thank you for the opportunity to be here today and to express the views of the United States Student Association. My name is Katherine Ozer and I am the legislative director at USSA representing students attending postsecondary institutions across the country through their individual student governments and State student associations.

Although USSA's primary concern is on educational issues and equal access to postsecondary education, our national membership does adopt positions on other issues which are relevant to members of our age group affecting students on the campus. The association has adopted a stance on this issue, in part because we are the major organized interest group participating in the U.S. congressional decisionmaking process whose constituency are students between the ages of 18 and 21.

USSA opposes current efforts in Congress to gain passage of national legislation which would raise the legal drinking age to 21, as outlined in H.R. 3870, which I testified on in the fall, and this current bill, S. 2719.

To begin with, we believe that the determination of the drinking age should be decided on the State level, which until now is where the issue has been addressed. It should be allowed to flow the course there. State legislatures and local communities are addressing the issue through legislative proposals.

In addition, States such as Ohio defeated the 21-year-old age on the ballot last fall. In addition, USSA represents State affiliates in the following States which have opposed legislative efforts to raise the drinking age: the Student Association of the State Universities of New York, SASU, the United Students of Iowa, the Associated Students of Kansas, the United Council of Students in Wisconsin, the Georgia Student Association, the Florida Student Association, the Ohio Student Association, to name the major ones.

Our position in opposition to this legislation is based on the premise that we believe that once an individual reaches the age of 18 they should be allowed the ability to make responsible decisions

concerning their own personal actions and lifestyles. The ability of an adult to make these decisions should not be interfered with.

The age of 18 is a universally accepted age at which individuals are considered under the law to be responsible for their own decisions and actions. In many States, 18 is recognized as the age of majority. Many States recognize 18 as a point when an individual has the maturity to be responsible enough to make their own decisions in such legal matters as entering into binding contracts, ability to sue and be sued, pay personal and property taxes, enter into a marriage contract without parental consent, and the ability to run for many elected offices.

The U.S. Government recognizes that 18-year-olds are responsible enough to register and be subject to the draft, operate sophisticated weaponry, and register and vote in National, State, and local elections. If 18-year-olds are responsible enough in States and in the country as a whole to make these decisions and assume these responsibilities, we feel they should be afforded the same responsibility as it relates to the decision whether or not to consume alcohol.

Extensive research has been conducted in New York State both by SASU, the statewide student association, and the New York State Assembly during their recent debate and defeat of the bill to raise the New York drinking age to 21. Scott Wexler, the executive director of SASU, is here with me to answer any questions and has submitted a statement and extensive research for the record.

Raising the drinking age is often suggested as a solution to the drinking and intoxication problem. Alex Wagner, noted expert in the area of highway safety, concluded in his latest publication that each State's experience with increasing the drinking age will be different. In fact, while most proponents of increasing the drinking age claim this would save lives—which we, of course, want to save lives as well—and decrease the incidence of driving while intoxicated, many States have had different results.

Minnesota experienced a fourfold increase in deaths among 18- and 19-year-olds when the drinking age was raised to 19. Montana raised the drinking age from 18 to 19, which resulted in a 14-percent increase in fatal crashes among 19-year-olds. When Massachusetts raised the drinking age from 18 to 20 in 1979, highway deaths among the affected population increased 23 percent the first year, followed by relatively small decreases thereafter. Highway deaths in the not-affected population decreased 18 percent. Maine, Illinois, Iowa, and Florida showed no significant change in fatality rates among the affected population.

If raising the drinking age is a solution to the problem of drunk driving among our youth, we question why the results have been so varied. It is our belief that the projected effects of an increase in the drinking age ignores the fact that many people today drink and drive in violation of the law and are likely, unfortunately, to do so. This is supported by the constant appearance of underage drinkers in current driving while intoxicated figures and the partial compliance with past increases in the drinking age.

It is our position that problems associated with alcoholism and alcohol abuse are certainly not limited to the 18- to 21-year-old age group, and prior testimony also supported these figures, which I

think is very important to realize. The problem should not be addressed by restricting access to alcohol by specific age groups, but should be addressed by public efforts through media campaigns, more certain apprehension through existing laws, and increased efforts at rehabilitation.

The conclusion drawn by SASU showed these efforts can clearly decrease the risk of alcohol-related traffic accidents.

Instead of singling out one age group, more constructive solutions should be proposed to deal with the broader societal problems of alcohol abuse. I will summarize. More extensive alcohol education programs should be undertaken. High school classes should, such as health and physical education, should provide students with the problems and dangers associated with alcohol abuse.

In addition, the kinds of contracts that SADD is talking about are very important, and I know my sister just graduated from high school and received that information in her graduation packet. Those are definitely the kind of information that needs to be distributed and to be really used by high school students.

USSA believes that alternatives to raising the drinking age will deal more effectively with the problem. A demonstration of this belief can be seen in the fact that we have aligned ourselves with a national association dedicated to educating the college campus community about the problems involved in alcohol abuse.

USSA is the only national student organization which is a member of BACCHUS, which stands for Boost Alcohol Consciousness Concerning the Health of University Students. As members of BACCHUS, we hold two seats on the Inter-Association Task Force on Alcohol Issues.

Our mission with in the BACCHUS structure is to assist students on the nonuse, use and abuse of alcohol through a national field organizing program which would provide assistance to those campuses wanting to initiate a BACCHUS chapter within their community.

USSA has put together a brochure called When You Drink, Think. It is a student guide for responsible decisions about drinking, which is based on research by BACCHUS. Our membership has adopted a resolution which was signed by the USSA board and which has also been approved by many other educational associations, to involve all levels of the university community in addressing the issue.

So basically, there have been many efforts, both legislative and nonlegislative, to try to deal with the issue on campuses. At Maryland's Towson State University, undergraduates are now required to wear wrist bands to show they are old enough to buy beer at university functions. The dean's office at the University of Indiana spotchecks dormitories to support the drinking policy there. The University of Massachusetts-Amherst student government initiated a rides program for students who consume large amounts of alcohol and then choose not to drive back to campus from local taverns for their own safety.

An argument not often brought to light concerning efforts to raise the legal drinking age involves the economic impact it would have on university students. If the age is raised to 21, many States will also make it illegal for individuals under the age of 21 to be

employed in the dispensing of alcoholic beverages. Kansas is an example of a State which attempted to implement this provision in their bill to raise the drinking age.

This action would remove a significant form of off-campus, or on-campus employment where there is a student union bar or pub, which is often a major income for students. In addition to the immediate result in loss of scarce jobs in the campus community, there is also the argument that the disappearance of on-campus bars which enable students to walk to the dorm or housing, thereby avoiding the dangers of driving after the consumption of any alcohol, would no longer be an option.

Finally, the United States Student Association opposes legislation which would require that a percentage of State's highway funds be withheld if State legislatures do not inact a 21-year-old drinking age. We view this sort of provision as a tactic of blackmail and harassment and believe it is totally inconsistent with the Reagan administration's policy of State's rights. The States should be allowed to establish their own drinking age standard free of harassment tactics by the Federal Government We view the establishment of drinking age standards as a State rights issue.

In conclusion, the United States Student Association is very concerned about this issue and appreciates this opportunity to be here. We would like to stress that we are not in favor of irresponsible alcohol consumption, that we too are very concerned about the loss of lies associated with alcohol-related traffic fatalities, and that we believe there are better alternatives to dealing with these problems other than the band-aid approach of raising the minimum drinking age.

We hope these points will reveal to you and the committee that we are not only concerned about the issue of at what age persons can legally consume alcohol. We are also concerned about the larger societal issues of misuse of alcohol, a situation which is certainly not age specific.

We thank you for this opportunity to testify. Sorry it was so long.

Senator DANFORTH. That is OK. Thank you.

I do not agree with your position, but you have done a very good job of presenting it.

I appreciate your testimony very much. Ms. Lightner, you are my hero. I appreciate everything you have done. I do not think there is anyone in this country who is more responsible for saving lives and saving heartbreak and preventing tragedy than you have been. You have just been absolutely magnificent. I appreciate it, and I know everybody does.

Mr. Chafetz, thank you for all of your contributions and for your testimony on this area and in so many other areas.

And Mr. Orr, it is great to see you here. You were very, very good. It was very good testimony, and very helpful to us. I think it is important for us to hear from your generation. I have found that among my constituents, that students have been very, very concerned and very involved in this area, and it really is a great thing to see it.

Senator Lautenberg.

Senator LAUTENBERG. Thank you, Mr. Chairman. There are a couple of things that I would like to ask. The fact that we are not asking you a lot of questions does not indicate any lack of interest. We have a lot of people to hear from. Senator Danforth and I are very anxious to get to work on the proposition itself. So we are going to take as much time as we can to do that.

Dr. Chafetz, I listened to your testimony with interest and with some concern, because as I understood it you were saying, OK, this is all right, but it is a relatively minor part of the problem, and you indicate that when you say in your testimony that you want us to know—I will quote you: "I want you to know that it was but one of 39 recommendations."

It diminishes certainly in fact the importance of this that we are working on, and I guess this is what you are saying. I do not think that sitting next to Ms. Lightner, who has directly experienced the problem, that you could convince her that this is a relatively minor issue, and you, as a physician, you have pledged to save lives and so forth.

It kind of surprised me, the downplay that you applied to this very important issue, and while you had your opportunity, you gave us a bit of a lecture. I in turn am going to turn the tables back on you and tell you, sir, that while you talk about the major issues and very complicated problems, I come out of a different community, a business community. I never saw a giant problem that you solve like that, and every one of these things takes small steps.

This is a small but very important step. I hope we will be able to enlist a larger measure of support from you than I get from your testimony. It is interesting. I do not find it persuasive, but we heard your point of view, and I respect the fact that you do not see this with the same view that perhaps others of us interested in getting this legislation passed have done.

Ms. Ozer, I heard your testimony. I share Senator Danforth's view. It was well prepared. You represent a fairly interesting attitude, not surprising. I would hope that we could over time convince you that this ought to be approached on the basis of the specific area of concern, but nevertheless we hear your point of view, and it is recorded on the record.

I hope that Mr. Orr's group will be able to convince you as time goes by that this is a very worthwhile effort. It does not diminish the standing of 18-plus-year-olds in terms of their part in our society. Maybe we ought to raise the age for fighting. I kind of smiled when you suggested maybe we ought to raise the age for driving. I am not going to be here that long, if my health holds out for the next 40 years. That is, to raise the driving age.

The fact is, I think maybe we ought to look at the whole host of problems, but again, I wish we could solve this one. Thank you, Mr. Chairman, and thank you, Ms. Lightner, for your as usual enlightening and very significant testimony.

You helped make the case graciously as well as factually, and we appreciate it. All of us in this country, I think, will be grateful to you as this legislation becomes law and as these statistics continuing to go down, fatalities and injuries, notwithstanding the doubters.

Thank you.

Senator DANFORTH. Thank you very much.

Next we have Ms. Phyllis Scheps, National PTA and New Jersey PTA, Dr. Arthur Yeager, Physicians for Automotive Safety, Mr. Peter Werner, Remove Intoxicated Drivers, from Central Monmouth County.

Ms. Scheps, would you like to begin, please?

Ms. SCHEPS. Yes.

Senator DANFORTH. Is this the New Jersey bloc that has arrived?

Ms. SCHEPS. The New Jersey bloc.

Senator LAUTENBERG. If I may say, Mr. Chairman, those bells have nothing to do with the witness panel or anything you are going to say. I am pleased that we have this panel from New Jersey. I welcome them here.

New Jersey, we think, has taken progressive steps to save our young people from alcohol-related death and injury. We cannot do it by ourselves, however, with our bordering counties in the north offering the opportunity for youngsters to drink and then try to drive back home.

I appreciate the fact, Mr. Chairman, that we do have this New Jersey panel with us, and I invite their testimony.

STATEMENTS OF PHYLLIS SCHEPS, NATIONAL PTA AND NEW JERSEY PTA; ARTHUR YEAGER, PHYSICIANS FOR AUTOMOTIVE SAFETY; AND PETER R. WERNER, REMOVE INTOXICATED DRIVERS, CENTRAL MONMOUTH COUNTY, NJ

Ms. SCHEPS. Thank you, Mr. Chairman, and members of the Senate Subcommittee. I do thank you for this opportunity to appear before you regarding Government and community measures to combat drunk driving.

My name is Phyllis Scheps, and I am pleased to speak today on behalf of the 225,000 members of the New Jersey PTA and the 5.4 million members of our national PTA. The PTA is the Nation's largest child advocacy organization. We have long been concerned about the tragedy caused by alcohol-related accidents involving our young people.

At the State and local levels, PTA members have been urging public officials to respond to this unnecessary carnage by passing laws and developing programs to combat drunk driving and alcohol abuse.

We believe that a necessary component of these efforts is the establishment of a minimum drinking age of 21 years in every State in our Nation. The New Jersey PTA, beginning in 1977, set a goal to raise the drinking age in our State. Similarly, PTA members across the country have adopted resolutions and joined with other concerned citizens in urging their legislators to raise the drinking age to 21.

Moreover, the national PTA in 1982 adopted a position statement, which I have appended—I will not read it—encouraging the support for 21. Unfortunately, too many States have not yet taken the step. The resulting lack of uniform laws has compounded the problem. When States have passed a 21 drinking age border, a State with a lower drinking age border does create problems.

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The national PTA applauds last week's passage in the House of Representatives of a 21-year-old drinking age bill. The national PTA strongly supports H.R. 533 and the Senate companion bill which are presently pending. I just want to briefly speak about the PTA experience.

The New Jersey State PTA in cooperation with Physicians for Automotive Safety, juvenile aid officers of the State organize and then we coalesced with 40 other statewide organizations to form the New Jersey Coalition for 21, representing approximately three-quarters of a million members. This broad-based coalition also garnered support from all top law enforcement and education officials.

Responding to an overwhelming support by the citizens, the New Jersey State Legislature raised the legal drinking age to 21 effective January 1, 1983. During the short period since then, many young lives have been saved and drunk driving convictions of those in the 18 to 20 age group have dropped. Furthermore, according to the New Jersey Division of Motor Vehicles, the number of drunk driving convictions for 16- and 17-year-olds has shown a dramatic decrease, down 51 percent.

Now, all of this talk has been about 18- to 20-year-olds, and we do forget that 16- and 17-year-olds do drive in many States, and the fact that we had such a dramatic reduction we feel is directly attributable to 21. This remarkable progress plus the reduction in the 18- to 20-year-old age category has not been replicated in any other age group.

Needless to say, we are overjoyed that there have been so many young lives saved.

Along with raising the drinking age, the PTA also acknowledges that other steps must be taken if we are to safeguard the lives of our young people. These include very tough drunk driving laws which New Jersey has already enacted, mandated alcohol education, which New Jersey is starting to implement.

I am proud to say we have accomplished quite a few things. All of this has an important impact, but again, the PTA believes that without the 21 minimum drinking age, the results I have described could not have been as dramatic. While such programs as mandatory alcohol education are required to produce long-term benefits, raising the drinking age brings immediate and positive results.

Traditionally, the main thrust of support for raising the drinking age has been based on the disproportionate number of alcohol-related deaths and accidents among our youth. Often overlooked, and we feel it is very important, and it has not been touched on today or in many hearings, are the problems of alcohol abuse in our schools, in our communities. Educators agree that when young people become involved with alcohol, whether on or off school premises, their ability to function is seriously jeopardized.

For example, the New Jersey PTA surveyed junior and senior high school principals twice during our quest for 21. One question first asked, have you experienced any decrease in alcohol-related problems since we lowered the drinking age in 1983? The response was an overwhelming, yes. The second survey was, after we had just gone to 19, the response from most educators was, raise the drinking age to 21.

I see my time is up. I would just like to skip over the major part of the information here that I think has been discussed before, but I would like to put in one last paragraph. Our fight, and I as a parent am representing millions of parents, our fight to save our children is not vindictive in any manner. We feel it is a gift of love and it is a gift of life.

My last statement is that no kid has ever died because he was not allowed to drink.

We thank you very much for your attention.

Senator DANFORTH. Thank you very much, Ms. Scheps.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. Of the steps, other than enactment of a 21-year drinking age, which you cite in your testimony as means to combat drunk driving, which do you consider the mot important?

Answer. (a) D.W.I. road blocks—must be accompanied by publicity—high visibility (This has been very effective in new Jersey).

(b) Uniform bar closing hours.

(c) 1,000 surcharge exact year on insurance for 3 years (effective in N.J.).

(d) Legislation making parents liable if they serve or allow anyone under 21 to be served alcohol (excludes children and blood relatives)—passed both Houses of legislature—waiting for Governors signature.

Question. What specific types of education programs do you believe would be the most effective in combatting drunk driving?

Answer. (a) Alcohol education to start kindergarten and go through entire school years.

(b) Alcohol education for parents (a must)! Many adults have no concept of the effects of alcohol.

(c) Most important: Parents, teachers educators, those in the alcohol field, guidance counsellors and anyone who has contact with our young people. They must be of one voice—one message—the drinking age is (and will be 21 nationwide). There must be an immediate elimination of programs that offer contracts or rides to inebriated teenagers under the legal drinking age.

Such progrmas totally overlook all the other alcohol associated problems (truancy, vandalism, crime, suicide etc.). "Give double messages to our youth—i.e. It's o.k. to drink underage as long as you don't drive." They unintentionally create underage alcohol abusers.

We adults must assist our youth in alternatives—If: finding night clubs that set aside 2 or 3 nites a week for bands and alcohol free events.

Provide parties that are alcohol free—once they get the message parents and adults are united—they will adjust.

Senator DANFORTH. Dr. Yeager.

Dr. YEAGER. Good morning. My name is Arthur Yeager. I am a dentist from Westwood, NJ, and I serve as vice president of Physicians for Automotive Safety, a nationwide organization of health professionals dedicated to reducing death and injury on the highway.

It was my privilege to represent Physicians for Automotive Safety on the New Jersey Coalition for 21 and take part in the successful effort to raise the drinking age there.

In the early 1970's, New Jersey joined a majority of the States in reducing the legal drinking age. By 1978 it was apparent to many of us that this was a tragic mistake. Police, school, and municipal officials reported a dramatic increase in alcohol-related vandalism, violent acts, and school discipline problems.

The number of motor vehicle accidents involving teenage drunk drivers soared. Fatalities tripled. Teenage drivers have always been

overrepresented in accident statistics, probably because of their immaturity and their inexperience behind the wheel. Their accident rate is double that which might be expected from their percent of the population.

When alcohol is made readily available to these youngsters, as it was in the early 1970's with the lowering of the drinking age, the combination of drinking and driving became especially lethal.

In New Jersey from 1965 to 1972, when the drinking age was 21, a yearly average of 18 drunk drivers between ages 18 and 20 were involved in fatal accidents. From 1973 to 1982, when New Jersey's drinking age was lowered to 18, the annual average rate rose to 58, a threefold increase. Now, with the drinking age back to 21 and with no comparable downward trend apparent for any other age group, in 1983 fatal crashes with 18- to 20-year-old drunk drivers were down to 26.

As a direct result of raising the drinking age, we estimate that 34 to 40 lives were saved in New Jersey last year, and will continue to be saved every year from now on. The lifesaving and injury-reducing potential of raising the drinking age has been confirmed by studies at the University of Michigan, by the National Transportation Safety Board and by the Insurance Institute for Highway Safety.

The Insurance Institute estimates and New Jersey results certainly seem to confirm that if the drinking age were raised in all States over 700 lives would be saved each year. After considerable study, it is my belief that raising the drinking age is the single most effective drunk driving countermeasure available. The results are immediate and dramatic.

Since 1972, no State has lowered and most States have raised their legal drinking age. The result is a crazy patchwork of laws, 18, some 19, some 20, most 21, some 18 for beer, 21 for distilled spirits. This pattern is not only confusing and illogical, but it has deadly implications at the borders of those States where there is a major difference in drinking ages.

For example, in Wisconsin the drinking age is now 18. The Illinois border is but a short ride and a major attraction for youngsters from the Chicago area where they must be 21 to drink. Establishments catering to those under 21 flourish just over the Wisconsin line. Imagine what roads south are like on the weekend at closing time.

Washington, Oregon, Nevada, and Utah have a similar problem with Idaho, as do Pennsylvania, New Jersey, Connecticut, and Massachusetts with New York.

Recently the Governors of the northeast States agreed to work for a uniform drinking age of 21 throughout the region. Unfortunately, just 2 weeks ago these efforts suffered a severe setback when the 150-member New York Assembly rejected an age 21 measure by six votes. The next day, Governor O'Neill of Connecticut said that he would abandon efforts to raise the drinking age there because of the Assembly action.

If S. 2719 were a statute, without question, the incentive would have been sufficient to swing the few votes needed for passage in New York.

Last year, a 19-year-old from my area drove over the nearby State line for an evening's legal drinking in New York with a friend. The resulting drunk driving accident killed his buddy, and he is now serving a year in prison. When a youngster is able to subvert the law in his State by crossing to another State, purchasing and consuming alcohol there, and returns drunk to cause death, injury, or property damage in his own State, it is time for Congress to act.

Last week, companion legislation passed in the House of Representatives, and yesterday the administration gave its support to the concept. We respectfully urge the prompt reporting and enactment of S. 2719.

Thank you.

Senator DANFORTH. Thank you, sir.

Mr. Werner.

Mr. WERNER. Senator Danforth, Senator Lautenberg, I would like to take this opportunity to thank you for allowing me the opportunity and the honor to be here this morning. The national uniform drinking age of 21 is an issue that no fair-minded individual is unacquainted with. Many States have already raised the age to 21, and many others are now considering it.

I ask you to consider what the arguments against 21 are, loss of business and a breach of Constitutional rights, and I ask you to consider who is making these arguments and what their motives are.

I am 19 years old, and I am a recovering alcoholic. My experiences with alcohol are extensive and somewhat sad. However, it is these experiences which deepen my conviction in support of a national drinking age of 21.

As a student, I see what happens when an 18-year-old or a 19-year-old is given permission by the State in which they live to go out and kill. I have also seen what happens when that State removes that privilege. I have fought this battle in many States. The arguments remain the same, yet each time the bill has been passed within only 6 short months a lifesaving change is evident.

The House of Representatives has taken the first step in passing this crucial bill. Now the Senate must act accordingly. The issue here, despite what the bill's opponents might say, is an issue of life and death, and not passing the bill will condemn thousands of innocent people to die needless deaths in years to come. Failure to pass this bill will promote the carnage that exists due to drunk driving on our highways.

Personally, I am tired of watching my friends die and seeing them condemned to wheelchairs. That is the malady and the issue. You are not legislating morality. You are legislating protection of life, liberty, and the pursuit of happiness. And those are words I am sure you are well acquainted with.

This bill does not speak of a right to drink, nor does it legislate a destruction of the tavern industry. It speaks of the right to life that is denied the 26,000 victims of drunk driving accidents every year, and it is my hope that my peers would rather forfeit temporarily the privilege to drink alcohol in exchange for the saving of another's life.

In closing, I would like to ask all the Members of the U.S. Senate to remember one thing. Their decision, no matter what it is, will affect thousands upon thousands of lives, and it is my hope that the right decision is made.

Thank you.

Senator DANFORTH. Thank you, sir. Thank you all very much for your testimony.

Senator Lautenberg.

Senator LAUTENBERG. Yes; just a couple of things, Mr. Chairman. I am proud of my fellow citizens from New Jersey, and am delighted that they have been doing the work that they have, and have made their presentations so eloquently and so appropriately here.

Peter, you have in your statement described what you think is the appropriateness of this action. We hear criticism of raising the drinking age even in New Jersey from young people who want the freedom to drink. We see a statistic mentioned several times that as high as 50 percent of the young people polled nationally recommend a higher uniform drinking age across this country to age 21.

What do you find by way of response from the people you talked to who are in your age group? Do they just not understand? Do they consider that it is a deprivation of their rights?

Mr. WERNER. When we were fighting this issue in New Jersey, many of my friends that are in my age group were saying the typical argument. You are taking away my right to drink. But I think each one of them knew in the back of their minds what the right thing was.

And I think once the bill was passed in New Jersey and it was law, they understood what implications this would have, and as time went on, the fight against drunk driving increased, and the media coverage increased, I think they just came to understand that maybe it was something they could do without, and many of my friends have found alternatives to alcohol.

Senator LAUTENBERG. You said in your testimony that you are a recovering alcoholic. Is that a common problem among young people that you knew or had contacts with? It is unusual certainly for many of us to meet with and see young people addicted to alcohol. We hear a lot about it. Do you see a lot of that?

Mr. WERNER. When I was drinking, I saw plenty of it, because the people I hung around with were people who drank the way I did. I believe sincerely that the problem of teenage alcoholism is at a rampant state.

Senator LAUTENBERG. Do you think that changing the law had any effect on that in New Jersey, or might it have?

Mr. WERNER. I will stand by my belief that the move in New Jersey raising the drinking age to 21 has prevented many people and has changed the minds of many people that were previously opposed to it in my age group.

Senator LAUTENBERG. We heard fairly cynical testimony this morning, I think, when one of the organizational people, Ms. Ozer, from the U.S. Student Association, said that the decline in teenage fatalities as the result of driving and drinking, Dr. Yeager, this would disappear and we would go back to the higher levels. Do you agree with that?

You made specific mention in your testimony, I thought very interestingly, that even though there was no apparent decline in other age groups in New Jersey after we raised the drinking age, we did continue to see a decline in the number of those killed in automobile accidents in the age group that we are addressing today.

Dr. YEAGER. Looking at the figures, it seemed to me that when we looked at the years when the drinking age was 21 in New Jersey, and it is now moving toward that same low level, so this is what we always had, the relatively low level of teenagers involved in drunk driving, and I think it is important to emphasize that we will not eliminate all of the drunk driving fatalities, and I certainly do not agree that it will reach a high level again. The level it will seek is the level as it was before. I think that is the way the statistics point.

Senator LAUTENBERG. Ms. Scheps, we have talked before about your interest in this, and I commend you and your organization. You have a strong and powerful organization that cares about issues generally affecting our young people, and I would urge you and your colleagues to get to work on this. It is not easy. We have come a long way toward accomplishing that objective, but we do need help from you and your pledge to do so, and you, Peter, and you, Dr. Yeager.

I thank you, each one of you, for being here and for devoting your time and your energy to this very important cause.

Senator DANFORTH. Thank you.

Ms. SCHEPS. Senator, we would also like to thank you, and we would like to show you this is what is going to happen now with the help of all those concerned. We thank you again.

Senator DANFORTH. Thank you very much.

The final panel, Mr. Douglas Fergusson, vice president for highway traffic safety, National Safety Council, Mr. Albert Godfrey, chairman of the National Association of Governors' Highway Safety Representatives, and Mr. Ronald Sarasin, director of government relations, National Restaurant Association.

Mr. Fergusson.

STATEMENTS OF DOUGLAS M. FERGUSSON, VICE PRESIDENT FOR HIGHWAY TRAFFIC SAFETY, NATIONAL SAFETY COUNCIL; ALBERT L. GODFREY, SR., CHAIRMAN, NATIONAL ASSOCIATION OF GOVERNORS' HIGHWAY SAFETY REPRESENTATIVES; AND RONALD A. SARASIN, DIRECTOR OF GOVERNMENT RELATIONS, NATIONAL RESTAURANT ASSOCIATION, ACCOMPANIED BY ROBERT J.S. SNOW, PRESIDENT, FLORIDA ENTERTAINMENT AND DINING ASSOCIATION

Mr. FERGUSSON. Mr. Chairman and Senator Lautenberg, I am Douglas M. Fergusson, director of safety services for Nationwide Insurnace Company in Columbus, OH. I am also a member of the board of directors of the National Commission Against Drunk Driving, and vice president of highway traffic safety of the National Safety Council.

We are pleased to be here today in response to the committee's invitation to discuss the current progress being made in combatting

drunk driving. We use the word "progress" because we feel very strongly that in the past 4 years this country has achieved some major successes in its fight to get the drunk driver off our highways.

Although that war has been waged primarily at the State and local levels, it has not been without Federal, particularly congressional support. It specifically commends you, Mr. Chairman, for your sponsorship in the Senate of section 408 incentive grants for alcohol traffic safety programs.

Today 15 States have qualified for such incentive funds with the possibility of a few more by the end of the year. Clearly those funds are helping States to enact and enforce tougher laws.

Today we would like to focus on a number of those laws and present what we believe to be the proper Federal role in this issue. The major challenge facing the Senate is passage of Federal legislation to establish a uniform national 21-year-old drinking age law. We believe the vehicle for such passage is S. 2719, introduced by Senator Lautenberg. This bill would withhold a portion of the State's highway construction funds if they fail to meet the 21-year-old drinking age law.

While there are many other bills that have been introduced that would also achieve these aims, the House version of 2719 overwhelmingly passed last Thursday as part of H.R. 5504. We were heartened that partisan politics took a back seat and the sponsors of the other House bill spoke in support of the measure. We hope the Senate will act in similarity and pass such a law. There are very few single legislative options that would save as many lives as raising the drinking age.

While we understand the reasoning of those who prefer that the States raise the limit themselves and not have it conditioned upon receipt of Federal funds, we also recognize the unfortunate difficulty of eliciting agreement and action from 50 State legislatures.

Although 23 States now have adopted a 21-year-old drinking age law, including four in 1984, we are still far short of our goal. Earlier this month, the New York State Assembly defeated the 21-year-old drinking age bill, despite strong lobbying from the Governor of New York, who had made it a top legislative priority. The New York experience clearly points to the need for a strong Federal voice in this issue.

The consequences of having different State laws on this subject are often tragic. The National Transportation Safety Board, whose chairman you heard this morning, estimates that 1,250 18- through 21-year-olds who are killed every year would be alive if there was a uniform 21-year-old law. Many of those 1,250 are killed when driving to a State with a lower drinking age, such as New York, and then returning to their own State, often intoxicated. These young adults pose a threat not only to themselves, but to those of us who are unfortunate enough to share the roads with them. There are 106 blood borders where the legal drinking age differs between States. These borders represent 50 percent of the total number of State borders in the country. This committee has heard stories in the past, tragedies that need not happen, lives that need not be wiped out, and other lives that need not be tragically altered as a result of those senseless deaths. Although we may disagree philo-

sophically on the role of the Federal Government, there is no disagreement as to the lifesaving potential of such a law.

So, we must weigh our philosophical beliefs against the yearly slaughter of those 1,250 young people. There is an opportunity to close that gap now, and we urge the Senate to take appropriate action as soon as possible so that States can begin the process as well.

Other issues upon which we believe the States should focus attention include administrative license suspension laws and improved data collection procedures. Currently 20 States have enacted legislation establishing administrative penalties for driving with a blood alcohol level of .10 or more. In most States, the penalty ranges from a 60- to 90-day license revocation regardless of the criminal disposition of the case.

In many States, the administrative license revocation penalties are even more severe for those who refuse the BAC test. The Presidential Commission on Drunk Driving, now the private sector National Commission Against Drunk Driving, in its November 1983 final report, indicated that this swift and certain sanction adds significantly to the general deterrent effect. The individual is afforded the opportunity of a hearing within a specified period of time, but the scope of the hearing is limited to the issue of whether the person tested over the legal limit or refused the test. License have shown to be an effective deterrent, some studies show it to be more effective than alcohol education and/or treatment programs. By administratively imposing these license revocations, the need for immediate response to the violation has been met.

As States are beginning to tighten up the penalties, particularly for repeat offenders, the need for good record-keeping takes on additional importance. Obviously in order to obtain a conviction on a second offense which carries more severe penalties, the first offense needs to be on the record and easily obtainable by the judges and prosecutors.

Unfortunately there are still many barriers to collection of this critical information. Again, as recommended by the Presidential Commission, State and local governments should adopt measures that streamline the record-keeping procedures by adopting statewide uniform ticket systems, courts should submit records of dispositions in a timely fashion to central State driver licensing authorities, and police and prosecutors should report arrest and charging information. In turn, the State should provide courts and prosecutors with rapid access to driver records. Development of a comprehensive reporting system will greatly enhance the process not only within the State, but between States as well. Toward that end, we are pleased with efforts being made at the Federal level to upgrade the National Driver Register and hope that such efforts continue. The National Safety Council's 10th International Forum on Traffic Record Systems, to be held in August, will address the issue of data collection for alcohol countermeasure programs. We would be pleased to report back to this committee on the results of that meeting.

Finally, the council further recommends that the committee undertake intensive hearings on the section 408 incentive grants for alcohol traffic safety programs in order to make that law more ef-

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fective. As we indicated earlier, 15 States have qualified for the funding, and we are obviously far short of all 56 jurisdictions. Some of the States that may not have qualified may in fact have well designed and implemented countermeasure programs that other States could learn from.

As more information becomes available concerning the effects of the new laws, there may be a need to revamp the criteria toward a more performance-oriented approach.

Mr. Chairman, on behalf of the council, I appreciate this opportunity.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. You advocate that the Commerce Committee hold an oversight hearing on the 1982 drunk driving legislation. In what ways do you think this legislation could be made more effective?

Answer. The National Safety Council strongly recommends the Committee consider holding extensive hearings on the implementation and reauthorization of the 1982 Alcohol Incentive Grant program. The hearings should address whether performance rather than specification criteria would be a more effective incentive for more states, as well as how well the current program is working. Such hearings could assess which state programs have achieved the largest reductions in casualties and would be a timely opportunity to identify these programs for the media.

Question. Why do you consider administrative license suspension to be such an effective deterrent to drunk driving?

Answer. Regarding administrative license revocation, the deterrence concept depends greatly on the swiftness and certainty of the sanction. Administrative revocation is precisely suited to this concept and represents the only such sanction which has shown a documented reduction in the rate of recidivism.

Senator DANFORTH. Thank you, Mr. Fergusson.

Mr. Godfrey.

Mr. GODFREY. Mr. Chairman, my name is Albert L. Godfrey, Sr. I am chairman of the National Association of Governors' Highway Safety Representatives, which I will refer to as NAGHSR, and I am the Governor's highway safety representative for the State of Maine.

Our testimony today will address three major areas in the drunk driving countermeasure field. The first is the four-way incentive grants. Since passage and final rulemaking of the section 408 program, 15 States qualify for both basic and supplemental grants. A few more States await final determination as to whether their programs qualify. Fifteen States is a reasonably impressive number at this point.

The qualifying States took major steps in their legislatures and at the executive level to comply with 408, and they are to be congratulated for doing so, but we see a problem in many of the States that have not yet been able to achieve the necessary legislative changes to bring them into compliance.

In large part, these States are the most populace, and their absence in the 408 program means most of the Nation's people reside in States that do not comply with all four of the 408 program's basic criteria. The sum population for all 15 States that have met 408 criteria is nearly 13 percent. This means that 87 percent of the population lives in States not covered by this program.

We know this was not the intent of the legislation. The toughest task within the four criteria, especially for the larger, more popu-

lace States, seems to be the requirement that the States promptly suspend offenders' licenses within an overall average of 45 days.

NAGHSR feels it is time to begin an examination of the 408 program so far developed and to explore the possible changes in the future that may help direct these important Federal highway safety resources to a wider population. We do not want, however, to interrupt or interfere with in anyway the ongoing programs developed in the States that have qualified for 408 funds.

Unfortunately, we do not have any specific suggestions at this time as to how such technical adjustments should be made. We hope to discuss this issue in some detail at our association's annual meeting when all member States are in attendance, and we invite you, Senator Danforth, and your staff to join us in this discussion.

We do not advocate such changes to occur any earlier than the spring of 1985, after several State legislative sessions are completed. We believe that productive dialog should begin now.

The second area is the computerization of traffic records. Since this association testified last year before your subcommittee, Mr. Chairman, about low cost financing made available for enhanced computerization of traffic records, little has changed. Indeed, the needs in this area have become more acute.

In the area of drunk driving it becomes ever more important to support efforts and actions with solid data bases out of which information can be conveyed and retrieved quickly and accurately if swift and sure sanctions are to be applied.

Although the issue can stand on its own as an area in highway safety needing special attention, there is almost no way to separate the need to enhance State traffic recordkeeping systems from other areas of highway safety activity, particularly drunk driving. We believe more States might qualify for 408 funding, for instance, if their record systems were more up to date and the data support systems that would verify compliance with certain of the criteria were more advanced.

The same is true if States are expected, as we are, to implement recommendations of the Presidential Commission on Drunk Driving. If more States enhance computerization of their data support systems, it is possible these systems would be able to respond more quickly and efficiently at all levels of the drinking driver, and even to bring down the average number of days it takes to suspend the offender's license.

Most State highway safety offices are now computerized to some degree, but it is in the coordination among all State agencies and other jurisdictions that the need for enhanced recordkeeping becomes most important. It is true that each system enhancement must start from the bottom up, that is, from the smallest jurisdiction in the State on up to the central recordkeeping office for the State, and there is still much to be done to pervade most State systems to that degree.

It should be possible to exchange pertinent information within a State quickly and thoroughly, with all information sources consulted. This is not now done in every State as well as it should be, and States would benefit greatly by improved communications through more widespread and uniformly applied computerization.

As mentioned last year, some States have highly developed statewide reference systems currently in operation. However, even with these, much work is needed in expanding system capabilities to enhance the usability and performance. A number of additional States have such systems under development. NAGHSR will continue to conduct a needs assessment in the States about the issues of computerization of traffic records, and hopes this committee will continue to consider those needs as a high priority.

We wish to conclude our testimony today with a statement about the progress made over the last several years in reducing the frequency and severity of accidents involving alcohol. Much has happened as a result of Federal action with the foundation of effective State programs, as we have learned over and over again that lie in a systems approach to each State's problems.

If progress is to continue, State highway assistance programs will depend upon the systems of which they are a part. Each element of the system depends upon all others in it, and if one part is weak, the entire system is diminished. This is particularly important in drunk driving programs, because so many in State and Government and the public at large are integral parts of the system.

We think the system is working well and has contributed to the reduction in fatalities and injuries we have experienced in recent years. We will continue to work for greater accountability within State systems, and think the approaches and proposals addressed in this testimony will aid the States in achieving that accountability.

We are also continually reminded of the delicate nature of our systems and the subsequent importance of the State funding partnership in that balance.

Thank you.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. Are there specific ways that you believe the incentive grant program authorized in the 1982 drunk driving legislation could be improved? If so, in what ways?

Answer. NAGHSR does not currently have a formal position on specific changes that could improve the 408 incentive grant program. As mentioned in our testimony on June 14, we think the major compliance problem lies in the inability of the more populous states to suspend offenders' drivers licenses within an average period of 45 days. If this is so, and if adjustments can be made in the process by which this particular criterion is measured, it would be reasonable to begin a dialogue about possible changes there.

We think enhancement of state computerization capabilities for traffic record-keeping will help states steamline their systems, and ultimately decrease the average period of time it takes to suspend a drinking driver's license. But such systemic improvements take time—sometimes years—to complete, and we hope that any technical changes in the 408 program will benefit states by making funds available to them in the immediate short term, after such changes are made.

NAGHSR members will hear a presentation at our annual meeting in September on how states already in compliance with 408 have met the 45-day average suspension requirement. We hope it will be helpful to states *not* in compliance to hear some of the procedures those states undertook, and how NHTSA worked with them, to come into compliance. The goal of this criterion was to urge states to *promptly* suspend licenses, and it may be possible to "fine-tune" the analysis that determines each state's compliance with this criterion to achieve prompt suspension.

Although we do not have a formal position on suggested improvements for the program, some NAGSHR members have offered three possible approaches, listed below:

States meeting three out of the four basic criteria—any three of their choosing—could qualify for a reduced amount of 408 funds, something like 20 or 25 percent of 402 funds, instead of the full 30 percent. The same criterion would still apply for the supplemental program.

In regard to the "prompt suspension" criterion and 45-day average, it has been suggested that a staggered system, based on population, might be a more equitable approach. Under such a plan, states with populations of 2 million or less would still be required to suspend licenses within an average period of 45 days or less. The "staggering" would begin with states having over 2 million in population, along the following lines:

Population, required average period; 2 million or less, 45 days; 2 to 10 million, 60 days; 10 to 30 million, 75 days; and 30 million and above, 90 days.

(To illustrate how diverse the administrative pressures are among states, it is interesting to note that during the first 3 months of 1984, in the state of Maine, 2,600 arrests were made. In California, approximately 2,600 arrests were made over the Memorial Day weekend alone.)

If a state meets most of the *supplemental* criteria—14 or 15 out of 22—but does not meet all 4 basic criteria, the state could still qualify for an award worth a percentage of 402 funds—20 or 25 percent—but would not be eligible for full 50 percent funding until they also met the four basic criteria.

We want to emphasize that the percentages and figures mentioned throughout are meant only as examples; further discussion would be necessary to determine the most appropriate levels for any of the approaches.

Question. For which specific tasks do you believe it would be beneficial for states to have computerized traffic recordkeeping systems?

Answer. Since each state computerized traffic recordkeeping system is developed to different degrees, needs differ from state to state. Certain tasks or elements of the systems are needed in common, as follows:

Use of software to accomplish linkage with other relevant state and local files containing such data as accidents, driver history, and highway locations.

Upgrading of the system in order to perform statistical analysis to support problem identification and program monitoring functions at all levels.

Software development to enable intrastate reporting on the complete range of suspensions, revocations and convictions, as well as state reporting on the same to the National Driver Register.

Development of on-line access capabilities for more responsive data output.

Expansion of the system in order to accept more data on all highway safety priority programs.

As states begin to enhance their statewide traffic records systems, other solutions will develop, tailored to specific state priorities and needs.

Senator DANFORTH. Thank you, sir.

Mr. Sarasin.

Mr. SARASIN. Mr. Chairman, my name is Ron Sarasin. I am director of Government Relations for the National Restaurant Association. With me is Bob Snow, a restauranteur from Florida, and president of the Florida Entertainment and Dining Association. With your permission, sir, I would like to allow Mr. Snow to make some comments.

The National Restaurant Association is the leading trade association for the food service industry. We represent over 100,000 food service establishments. We are the largest service industry in the Nation. Our sales make up almost 5 percent of the U.S. gross national product, and yet 94 percent of our businesses are small, with sales under $500,000. Eighty-five percent are single unit operations. We employ over 8 million people in the United States.

Restaurateurs, like all Americans, are concerned about the high incidence of drunk driving in this country. Drunk driving is a broad social problem which extends far into the food service industry. We believe it can be resolved only through broad-based con-

sumer education. We believe the President's Commission on Drunk Driving says the same thing.

Correspondingly, we do not support proposals to raise the minimum purchasing age, since we believe it to be an ineffective method, and I would like to submit a statement of research findings for the record, Mr. Chairman. We believe the research so far is faulty, basing its premise on assuming a direct cause and effect relationship between drinking age and crashes without taking into account other variables.

We are also concerned about the loss of employment opportunities for young people, 18, 19, and 20, in those States that may adopt the change without making an adjustment for those young people.

The National Restaurant Association has developed an alcohol awareness program which has three parts. It first addresses the need for public education, and the association is committed to working with other national organizations such as Mothers Against Drunk Drivers, Students Against Driving Drunk, and the Licensed Beverage Information Council on long-range consumer education. We are producing public service announcements to be aired on television to try to get the message out.

The other two parts of the program concern restaurant operations. The association has developed a seminar on prudent alcohol service. It is a 1-day course which trains managers to teach bartenders and servers about the phyiscal effects of alcohol, the visible signs of overconsumption, and the methods of preventing intoxication. Our objective, of course, is to make the seminar available to everyone in the country.

The third part involves practices within the food service outlet. A resolution passed by our board of directors calls for introduction of the following practices: One, establishment of alternative transportation programs. Two, establishment of designated driver programs. Three, the serving of appropriate food at the bar as a deterrent to intoxication. And four, proper checking of guest identification.

We are discouraging practices which we believe might be fostering overconsumption of alcoholic beverages. In particular, we are discouraging all-you-can-drink offers, two-for-one offers, multiple drinks at cutoff time, and unlimited free drinks.

In a nutshell, the National Restaurant Association is urging its members to develop merchandising programs for alcoholic beverage service which are in line with the goal of reducing drunk driving.

This, then, is the National Restaurant Association's three-part program aimed at reducing drunk driving. No action on the part of food service operators alone can resolve this problem. Restaurants and taverns dispense less than one-quarter of the alcoholic beverages consumed in the United States, but we believe that if all the relevant sectors of the business community, and all those people who believe as we in the moderate dispensation of alcohol, take similar responsible actions, alcohol-related accidents and fatalities will be reduced by great measures.

We don't believe you can do this by reducing the drinking age. This is a social problem. It will be resolved when our society decides to act together to eradicate the problem. The most positive

action that can be taken to bring about this end is broad-scale education.

Mr. Snow.

Mr. SNOW. Thank you, Mr. Chairman. I will be very brief. I thank you very much for the time. I have testimony here which I would like to put in for the record, and I would like to make a few very quick points.

I am Robert Snow. I am president of the Florida Entertainment and Dining Association. I represent hotels and restaurants in the State of Florida that have been involved in this issue for the last 4 years. The reason we are involved in this issue is that we are very concerned about drunken driving. We have DD—designated driver programs, free taxi rides home, public awareness and education programs that go along with the 98 recommendations of the President's Commission on how to cut down on drunken driving.

What we do not agree upon is one of those 98, which only got about one inch in the middle of the folder, concerning raising the drinking age. The reason we do not agree with this method of stopping drunken driving is that it has been a failure in the State of Florida, where in 1980 there were 19 fatalities of 18-year-olds when it was legal to drink. In 1982, the last reporting year, there was an increase of 20 percent of those 18-year-old fatalities when it was illegal to drink.

What we feel is that raising the drinking age does nothing but change the point of consumption from legitimate licensed premises to back roads, parks, and beaches. There are other States with similar experiences. When the State of Montana raised the drinking age, fatalities went up. In Iowa, fatalities went up. In Minnesota, it went up by a factor of four when they raised the drinking age and made it illegal for the affected drinking group. In the State of Maine, in the State of Massachusetts, in the State of Georgia, and in my home State of Florida, this has happened. The National Highway Traffic Safety Administration, in their most relevant study of the hundreds of studies that have been done on the effects of raising the drinking age, also provided evidence of the futility of raising the drinking age. It is a study of the 15 States which they feel have the best recording of alcohol-related traffic accidents. They say that the 19- and 20-year-olds have a better record of drinking and driving and are less blameworthy than any age group from 21 to 44. This is a Federal study, and is one of the over 100 that have been paid for by the Federal Government, of which the majority shows that raising the drinking age has not been effective.

If it is not effective, let us look at employment. We in the State of Florida are going to lose 40,000 young people from our employment rolls. In the entire country, there are over a million young people who are working their way through school, who have children at home, or who are helping with their employment on the family level.

I would say, let us go to some positive legislation. Let us do something that will affect all ages. It is not a matter of age. It is a matter of drunken driving.

Thank you very much. Let us do something that is not futile at best, fatal at worst.

Senator DANFORTH. Thank you, sir. This is certainly an area that is going to bear careful scrutiny. I think the suggestions made by various witnesses and this panel in general that we should continue to look at the issue of drunk driving and look at the workings of the 1982 incentive law in particular. It is very worthwhile advice.

I am afraid that I have to be on the floor of the Senate at 11:30, so I am not going to be able to ask you a lot of questions. It is not for lack of interest, but only for lack of time. But I very much appreciate your being here, and all the other witnesses today.

[The statements follow:]

STATEMENT OF RONALD A. SARASIN, DIRECTOR OF GOVERNMENT RELATIONS, NATIONAL RESTAURANT ASSOCIATION

Good Morning. I am Ronald A. Sarasin, Director of Government Relations for the National Restaurant Association. I would like to introduce you to the National Restaurant Association's campaign against drunk driving. Briefly, let me tell you a bit about the Association and the restaurant industry.

The National Restaurant Association is the leading trade association for the foodservice industry, and represents over 100,000 foodservice establishments, from upscale tableservice restaurants to fast food operations to bars and taverns.

The restaurant industry is the largest service industry in the nation. Its sales make up five percent of the U.S. Gross National Product, and equalled 144 billion dollars in 1983. Ninety-four percent of all eating and drinking places are small businesses with annual sales under $500,000, and 85 percent are single units operations.

Some eight million persons are employed by the foodservice industry, making it the nation's largest retail employer. A majority of those employees are women, and half of all foodservice managerial and administrative personnel are women. In addition, the foodservice industry employs more minority managers than any other industry.

Clearly, restaurants and other foodservice operations are an integral and important part of our nation's economy.

Restaurateurs, like all Americans, are concerned about the high incidence of drunk driving in this country. The Congress, the federal agencies, and a variety of influential citizen groups are supporting what amounts to a national campaign to keep alcohol impaired people off the road. Foodservice operators all over this country are ready to do their part in this campaign.

Drunk driving is a broad social problem which extends far beyond the foodservice industry. We believe it will be resolved only through broad-based consumer education. According to the report of the President's Commission on Drunk Driving, "Long term education and prevention efforts, with private sector involvement, are particularly key to our success in combating drunk driving."

Correspondingly, we do not support proposals to raise the minimum purchasing age, since we believe it to be an ineffective method for solving the problem of alcohol-related traffic fatalities. I would like to submit for the record a summary of the research findings which have led us to this conclusion. In part, they show that most research published to date is based on faulty premises such as assuming a direct cause and effect relationship between drinking age and crashes without taking into account other variables, and covering only short time periods which are inadequate for determining whether changes occurring after a lowering or raising of the drinking age are indicative of long-term effects.

In addition, many individuals including Members of Congress have been emotionally influenced by these well-intentioned but misleading citations of statistics, and have failed to recognize the experiences of states like Maine and Florida, where increases in the drinking age have resulted in no decrease in alcohol-related crashes involving youths, and have even resulted in an increase in such deaths.

The great majority of Americans must be convinced that driving under the influence of alcohol is a serious offense against society. When they are, the number of alcohol-related accidents will drop markedly. Meanwhile, there are many things individual foodservice operators can do the help achieve this national goal.

The National Restaurant Association's Alcohol Awareness Program has three parts. It first addresses the need for public education. The Association is committed to working with other national organizations such as Mothers Against Drunk Drivers (MADD), Students Against Driving Drunk (SADD), and the Licensed Beverage Information Council LBIC) on long-range consumer education.

We are producing a public service announcement to be aired on TV and radio. We hope to release it by mid-summer. We are also producing posters and table tents which foodservice operators can use to communicate the dangers of drunk driving to their customers.

The other two parts of the program concern restaurant operations. The Association has developed a seminar on prudent alcohol service. It is a one-day course which trains managers to teach bartenders and servers about the physical effects of alcohol, the visible signs of overconsumption and methods of preventing intoxication. This seminar will be offered throughout the country by the National Restaurant Association and the various state restaurant associations.

Our objective is to make this seminar available in every region of the country where a similar program is not yet in place. We will urge every foodservice operation which serves alcoholic beverages to participate in this course or a course like it.

The third part of the program involves practices within the foodservice outlet. A resolution passed by our Board of Directors calls for introduction of the following practices:

1. Establishment of alternative transportation programs,
2. establishment of designated driver programs,
3. the serving of appropriate food at the bar as a deterrent to intoxication, and
4. proper checking of guest identification.

At the same time, we are discouraging practices which may be perceived as fostering overconsumption of alcoholic beverages. In particular, we are discouraging "all-you-can-drink" offers, "two-for-one" offers, multiple drinks at cut-off time and unlimited free drinks.

In a nutshell, the National Restaurant Association is urging its members—if they have not already done so—to develop merchandising programs for alcoholic beverage service which are in line with the goal of reducing drunk driving.

Mr. CHAIRMAN. the brochure we have provided to you and Members of the Subcommittee will introduce our program to the restaurant industry. This brochure will be mailed with sample posters and table tents to our membership. It is a "how-to" brochure. It contains suggestions for setting up alternative transportation and designated driver programs. It talks about the introduction of bar foods and gives detailed examples of bar promotions which do not involve drink discounting. We beleive it will do much to help our members implement the resolutions I have just been describing.

This, then, is the National Restaurant Association's three-part program aimed at reducing drunk driving. No action on the part of foodservice operators alone can resolve this problem. Restaurants and taverns dispense only one quarter of the alcoholic beverages consumed in the United States. But we believe that we can and should help. We are joining with the other organizations and individuals across the country in doing our part to clear our streets and highways of intoxicated drivers.

I will be glad to take any questions.

RESEARCH FINDINGS

Research has not consistently demonstrated that changing the drinking age has a significant effect on alcohol related traffic crashes and fatalities.

Data on alcohol related fatalities are not adequate to analyze the effect of changing the drinking age. "At the present time, available alcohol related statistics are very limited in nature and do not convey any more information than the correct conclusion that alcohol plays a very significant part in the occurrence of fatal accidents. The limited information available on differences among driver classes in the use of alcohol comes from local studies and does not identify problems at a level of detail necessary for the design of effective countermeasures." Alcohol in Fatal Accidents, DOT, 1983.

Current research does not show a cause and effect relationship between drinking age and alcohol related crashes. In many instances, research published to date is based on empirically faulty premises as it:

1. Assumes a direct cause and effect relationship between drinking age and crashes without taking other variables into consideration.
2. Fails to investigate annual changes in highway crashes or fatalities for a long enough time period to determine whether those occuring after the drinking age has been lowered/raised are with the normal range.
3. Investigates number of crashes or drivers involved in fatal accidents rather than accident or fatality rates which would correct for changes in the number of licensed drivers as well as changes in the number of miles driven.

4. Covers, of necessity, relatively short post-law change time periods and assumes continuing long-term effects.

"The Effect of Raising the Legal Minimum Drinking Age on Fatal Crash Involvement," Williams, et. al., 1981, a nine State study concludes that "on average a State that raises its drinking age can expect about a 28 percent reduction in nighttime fatal crash involvement among drivers the law change applies to." Net change ranged from −75 percent in New Hampshire to +14 percent in Montana. This represents an enormous range from which to generalize.

"Traffic Accidents and the Legal Drinking Age in Wisconsin: A Second Opinion," Birkley, et. al., 1983, reviews data from Maine, Michigan, Montana, Massachusetts, New Hampshire, Tennessee and Illinois, seven of the States in Williams' study. Birkley concludes that "these analyses reveal no consistent or predictable pattern of changing highway crash involvement attributable to raising the age."

Williams assumes a direct cause and effect relationship between drinking age and crash involvement. No other variables are examined. Variables such as changes in gasoline prices, miles driven, changes in DWI enforcement and increased public education could well have had a strong impact on teenage fatalities in specific States. Presumably, due to a lack of sufficient BAC level data for the States studied, Williams' research includes all fatalities during a specific time period rather than alcohol related fatalities. Again, this suggests that a number of variables must be weighed before it is concluded that changing the drinking age has a significant impact on fatalities.

In addition, no analysis was done pertaining to changes in fatalities during other years when no drinking age change was legislated. Evidence from other studies suggests that there are vast year-to-year percent changes in number of fatalities that have nothing to do with changing the drinking age. (See Zylman below.)

"Lowering the Drinking Age Increases the Problems Related to Alcohol: Where is the Evidence?" Zylman, 1984 discusses frequently cited data from Michigan. Zylman notes that the 24 percent increase in teenage crash involvement occurring when the Michigan drinking age was lowered "represents a normal year-to-year fluctuation which could very easily have occurred even without a change in the legal drinking age." He further notes that "from th data available it must be concluded that what first seemed to be a rapidly worsening problem appears, instead to reflect a change in police reporting practices, and the actual increases in traffic deaths reflected a normal year-to-year change."

Dr. Margaret L. Clay, Professor Emeritus, University of Michigan critiqued another frequently cited study in support of raising the drinking age, "An Evaluation of the Changes in the Legal Drinking Ages in Michigan," Wagenaar, et. al., 1980. She concludes that they have generalized statistical findings from research in progress beyond the limits of their sample and the conditions under study. "This study provides neither the level of validity nor of understanding of the underlying dynamics responsible for the large number of alcohol related crashes among 16 to 24 year olds which would justify differentially imposing legal prohibition of all drinking behaivor on the 18 to 20 year old subset of otherwise legal adults. Public policy makers should proceed very cautiously in using conclusions from such tentative research findings to make important social policy decisions which not only do not solve the problem addressed but have potential for creating new problems."

Data from the Fatal Accident Reporting System, DOT, 1983, also suggest that establishing a 21 year-old drinking age does not address the real problem of alcohol related fatalities.

Overall teenagers are less likely than individuals in their twenties and thirties to be involved in alcohol related fatal accidents.

Women are much less likely than men to be involved in alcohol related fatal accidents. Thus, raising the drinking age would penalize young women who make up at least half of the total teenage population.

Young male drivers, less than 25 years of age, are generally assumed to be the groups that creates the majority of drunk driving problems. However, Alcohol in Fatal Accidents, National Estimates, U.S.A., DOT, January 1983 states "young male drivers, less than 25 years of age, are not more likely to be intoxicated than the remaining drivers. Their over-involvement in fatal accidents is more likely due to abnormal exposure to high risk travel during periods of greater alcohol use. There is no indication that at any specific time this groups of drivers has a greater proportion of drivers involved in fatal accidents who are intoxicated."

These data suggest that the DWI problem would be better handled with a combination of stricter enforcement, penalties and education rather than with an arbitrary decision to penalize a group of the population based on age.

ALTERNATIVE POLICY CHANGES

Alternative policy changes such as increased enforcement of DWI laws and stiffer penalities, coupled with increased public education are appropriated and effective ways of curbing drunk driving.

"The Effects of Government Regulations on Teenage Motor Vehicle Mortality," McCornac, 1982, investigates the impact of a number of policy manipulable variables on motor vehicle mortality rates of white males, 15–24. It concludes that "The implementation of a nationally mandated minimum purchasing age of 21 could significantly reduce the number of teenage motor vehicle mortalities. However, before such policy decison are made the significant role of the highway variable as well as the unexpected results of many of the availability variables must be considered. Alternatively policy changes such as increased enforcement of drunk driving, stiffer penalities for driving under the influence of alcohol, or a change in factors that affect the availability of alcohol (other than minimum purchase age) may achieve the desired results."

A number of other studies confirm that changing the drinking age does not prevent teens from drinking.

"Preventing Highway Crashes by Raising the Legal Minimum Age for Drinking," Wagenaar, 1982, states that "while it is generally assumed that higher legal drinking age results in less alcohol consumed by youth, aggregate analyses to date have revealed no consistent relationship."

In addition, research finds no statistically significant change in alcoholic beverage sales when the drinking age is raised or lowered.

Researchers have found that when teenagers are denied the opportunity to drink in licensed, supervised establishments they do not stop drinking. Instead, they drink in unsupervised surroundings such as parking lots or while riding around in their cars.

Research findings suggest that "the closer the legal drinking age is to the effective drinking age the more likely it is that drinking will occur in supervised settings, and the lower the risk of excessive consumption and alcohol related crashes, crimes and disturbances will be. Conversely, the higher the legal drinking age is relative to the effective drinking age, the greater the risks will be among underage drinkers."

These findings strongly suggest that alternative policy changes which do not arbitrarily penalize a portion of the population based on age will be more effective in curbing alcohol related crashes and fatalities.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. You state in your testimony your opposition to setting a national minimum legal purchasing age of 21. What specific research are you aware of which supports your belief that a minimum drinking age is an ineffective method of solving the problem of alcohol-related traffic fatalities?

Answer. Young adults aged 18, 19, and 20 actually have lower rates of alcohol involved traffic fatalities than drivers aged 21 to 44! (NHTSA Technical Report enclosed.) [1]

Many States which have increased the minimum purchasing age have experienced an increase in alcohol-related deaths for those ages which the laws were intended to protect!

Many of the statistics cited to support an increased purchasing age have been exposed as being faulty or being used for purposes their authors claim are erroneous.

Raising the purchasing age has not changed consumption, only the point of sale. Removing the 18, 19, and 20 year old from the controlled atmosphere of a licensed establishment to an automobile only increases the likelihood that an alcohol-related accident will occur.

In States where fatalities have been reduced, the reduction is actually attributable to more active enforcement programs and stronger penalties, not to increases in the purchasing age.

Question. NRA's new alcoholic beverage service program is commendable. How quickly do you envision that your program will be implemented?

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[1] The enclosures have been retained in the committee files.

Answer. The National Restaurant Association's Alcohol Awareness Program was instituted two weeks ago with the mailing of materials to our member establishments. Enclosed is a sample packet for your information.

STATEMENT OF ROBERT J. SNOW, OWNER, FLORIDA RESTAURANTS AND ENTERTAINMENT COMPLEXES

Mr. Chairman and Members of the Committee, my name is Robert Snow. I own and operate a complex of restaurant and entertainment operations best known as Rosie O'Grady's with locations in Pensacola and Orlando, Florida.

I am President of the Florida Entertainment and Dining Association and am an active member of the Florida Restaurant Association and the National Restaurant Association.

Mr. Chairman and Members of the Committee, the problems of alcohol abuse and drunk driving in this country are both serious and are extremely complex in nature. The solution proposed in the bills presently before both Houses of Congress would in one way or another initiate alcohol prohibition for 18, 19, and 20-year-old adults and is simplistic and dangerous.

Proponents of these bills would have you believe that higher legal drinking ages reduce the risk of alcohol-related highway crashes among those affected. To convince you of that, they cite selected statistics, which show a 28% reduction in alcohol-related highway crashes among those affected by raising the legal drinking age here, a 15% reduction there, and a 50% reduction somewhere else.

In the event you are not persuaded by those statistics, they ask you to accept the common sense logic of the argument that age-based prohibition, (forbidding sale, purchase, possession or consumption of alcohol by persons under a certain legal age) will make it more difficult to obtain, and reduce the likelihood of abuse, among the target age group.

I appear here today because I believe that the overwhelming body of scientific evidence, statistical studies, common sense and our traditional socio-legal values, demand rejection of a national 21-year-old drinking age in any form.

First, we have all been told over and over again that, because drivers under the age of 21 are more likely to be involved in alcohol-related highway crashes than are drivers in any other age group, they ought to have their drinking privilege rescinded.

But, the National Highway Trafffic Safety Administration's 1982 study shows that while 6.7 to 8.7% of the crashes ivolving 18, 19, and 20 year-old drivers are alcohol involved, the figure is 9.1% for 21-year-olds and 10.6% for 22 through 24-year-olds where alcohol is involved. Looking at all highway crashes by driver age group, NHTSA's figures show that 18, 19 and 20 year-olds are actually less likely to be alcohol-involved than 21 through 25 or 45 through 54 year-old drivers!

Second, we have all been told over and over again that statistical studies show that every state which raised the legal drinking age to 21 experienced a subsequent reduction in highway crashes among those affected.

But, we have not been told of other studies which show that crashes involving drivers of the same age also decreased in states which did not raise the age at all. And we have not been told that the studies cited by the Presidential Commission on Drunk Driving are not at all consistent. Finally, we have not been told of the strong criticisms of the data, methodology, and conclusions of these studies voiced by other equally thoughtful and respected scientific analysts.

In addition, whatever the proponents may say about the meaning of statistics and scientific studies, the test of reliability lies in the extent to which they reflect reality and the extent to which they withstand the application of common sense and simple logic.

Advocates of these measures want you to believe that legal prohibition for all 18, 19 and 20-year-olds, most of whom do not abuse the drinking or the driving privilege, will make beverage alcohol more difficult to obtain and thereby prevent abuse by the irresponsible few.

The proponents of the 21-year old drinking age would have you believe that "every study shows" that raising the legal drinking age has, or will save lives among those affected. Certainly, that is what every study they choose to quote will tell you. But, there are other equally reliable studies which show that higher legal drinking ages do not reduce the risk and have not reduced the alcohol-related highway crash rates among those affected.

According to the National Institute on Drug Abuse; marijuana is widely available and until recently was more frequently used on a daily basis than alcohol by the

nation's high school students. Total prohibition has not stopped use or abuse of marijuana, which most citizens fear and reject. Yet the 21-year-old drinking age advocates want you to believe that partial prohibition will prevent use and abuse of alcohol, which is legally available to most citizens throughout the land and which most citizens enjoy and use responsibly.

We are told that prohibition for 18, 19 and 20-year-olds will succeed where total prohibition was a total failure.

In its reports on Alcohol and Health to the United States Congress, the National Institute on Alcohol Abuse and Alcoholism said that where alcohol is widely used and legally available to adults, it is not difficult for underage drinkers to obtain. Where they cannot purchase or consume alcohol legally in supervised settings, they obtain it illegally and consume it in unsupervised and often remote settings, where they tend to drink more, drive more and get into more trouble.

Proof of that observation is found in National Highway Traffic Safety Administration, Fatal Accident Reporting system data for twenty-two states which maintained different legal drinking ages for beer over a five-year period. Driver fataiity rates were higher among 18 through 20-year-old drivers where the drinking age was 21 and lower where it was 18 throughout the study period.

Social scientists report that abusers are, by definition, socially and legally deviant; that is, abusers do not live by or obey the existing laws or social standards. Changing the law will not make their behavior any more illegal than it already is. But, it will criminalize an otherwise normative social behavior of those who do obey the existing laws.

I believe that enactment of legal prohibition for 18, 19 and 20-year-old adults will not result in reducing the risk of abuse. It will make alcohol more difficult to obtain for some. It will prevent some from drinking. But, as the NIAAA and the World Health Organization found throughout the world, it increases the risk of abuse, death and injury by driving the rest to drink illegal, unsupervised and more risky settings.

Senator DANFORTH. That concludes the hearing.

[Whereupon, at 11:20, the subcommittee was adjourned, to reconvene upon the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF THE AMERICAN INSURANCE ASSOCIATION

On behalf of the American Insurance Association (AIA), I am pleased to submit comments on government and community measures to deter the drinking driver. The Association represents 170 casualty insurers who write about $8.6 billion in private passenger and commercial auto insurance premiums annually or about 20% of all the auto insurance written in the United States. Consequently, our members have a significant economic as well as a strong humanitarian interest in reducing traffic accidents arising from persons driving while under the influence of alcohol. Reduction of these accidents not only means less human suffering, but fewer lost wages, medical bills, property damage and insurance administrative costs. We commend Senator Danforth for his leadership and support him in his efforts to reduce deaths and injuries on our nation's highways.

In 1982 alone, there were 46,000 fatalities from motor vehicle accidents and 1,700,000 disabling injuries. Economic costs (including wage loss, medical expense, insurance administrative cost, and property damage) totaled $41.6 billion.[1] According to the National Highway Traffic Safety Administration, more than 50% of these fatal crashes were alcohol-related, costing our society between $21-24 billion each year.

INCREASED PUBLIC AWARENESS

Public awareness of the problem has increased in the past few years and opinion has shifted in favor of stronger penalties. We believe this shift is due largely to the work of citizens' groups such as Mothers Against Drunk Drivers (MADD), Remove Intoxicated Drivers (RID), and Students Against Driving Drunk (SADD). Public attitude surveys done in 1982 & 1983 under the sponsorship of the All-Industry Research Advisory Council (AIRAC) provide evidence of these trends.[2] Some of the more important findings of these surveys include:

(1) In 1983, 54 percent of those surveyed favored a jail sentence for a drunk driver causing a serious injury, compared to only 40 percent of those surveyed in 1982.

(2) When asked about methods that might be used for apprehending drunk drivers, 88 percent favored testing for alcohol all drivers involved in an auto accident in which someone is injured, and 73 percent were in favor of testing for alcohol all drivers involved in minor accidents, including fender benders. A little over half favored testing all drivers stopped for moving violations. Also, 61 percent supported giving alcohol tests to a sample of drivers at places and times when driving under the influence is most likely to occur. Even when the question was reworded to specify police road blocks, 51 percent approved, compared to 45 percent in 1982.

(3) Local police, prosecutors, judges, family and friends were named most often as groups that should have the most responsibility for dealing with drunk drivers. The federal government, driver licensing officials and insurance companies were named least often from a list of ten groups.

(4) Finally, when asked what insurance companies could do to combat drunk driving, 86 percent supported proposals to educate drivers through mailings and 88 percent favored the imposition of much higher auto insurance rates (double or more) on persons convicted of drunk driving.

These findings support our view that the anti-drunk driving movement is taking hold and the public is ready for tough action to attack the problem. In an attempt to contribute to this movement, the Association is and has been very active in supporting responsible legislation at both the state and federal levels as well as in the areas of education and public awareness.

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[1] National Safety Council, Accident Facts, 1983 edition, p. 40.

[2] AIRAC is a research organization that was formed by the property and casualty insurance business to study public policy issues affecting risk and insurance. It does not serve as a spokesman for the industry, nor does it advocate any point of view on policy matters.

STATE ACTIVITY

With regional offices in key areas around the country, AIA is able to monitor and support responsible drunk driving legislation introduced in the states legislatures. For example, our association actively supported the recent attempt in New York State to raise the drinking age to twenty-one years of age. Unfortunately, the legislation was defeated but we will continue to push for reconsideration.

Generally, the association's policy toward statutes pertaining to drinking and driving reflects our belief that:

Increases in the minumum drinking age are necessary but the establishment of drinking ages should be left to individual state discretion. Problems will differ from state to state and so will the solutions. Moreover, states may wish to test various approaches to deterrence. The inflexible recommendation of age 21, tied to economic incentives, may inhibit the political flexibility needed to implement increases to ages 19 and 20 and even adopt complementary approaches, (e.g., increased driving age or curfews).

Existing state laws should be amended to provide that operation of a vehicle at or above a fixed blood-alcohol content level (preferably no more than .10 percent) is a *per se* violation of the law. Most states provide that this merely establishes a presumption that the violation has occurred.

The state motor vehicle department should be empowered to suspend or revoke through an administrative proceeding the license of a person whose blood-alcohol content has been found to exceed permissible levels. Divorcing the issue of license revocation from the criminal proceedings against the driver should result in administrative penalties which get the offender off the road. The possibility of swift loss of operating privileges will also act as a deterrent factor.

State drunk driving laws should emphasize the certainty of punishment, as opposed to severity. First offenders should be offered alternatives to sentencing, such as community service work or participation in educational or rehabilitation programs for alcohol users. However, these programs should not be permitted as substitution for license suspension or revocation. Repeat offenders should be subject to mandatory minimum jail sentences.

FEDERAL ACTIVITY

We believe that action at the federal level should support and complement the states in their efforts to deter drunk driving. Consequently, our association supported enactment of P.L. 97-364 which, as you know, dealt with alcohol traffic safety programs and the National Driver Register. Because we feel the Federal government should encourage but not mandate state laws in the drunk driving area, AIA favors the incentive approach on the drinking age in Senator Danforth's omnibus highway safety bill, S. 1108, over the "stick" approach of S. 1948 or S. 2263/S. 2719. In addition, we supported the objectives of the Presidential Commission on Drunk Driving and applaud the creation of the National Commission Against Drunk Driving. Such attention at the federal level should be continued to assist the states and localities in their search for answers.

PUBLIC AWARENESS AND EDUCATION

Aside from political activity, the association has been very involved in the public awareness and educational aspect of the drunk driving issue. Some of the activities we have participated in include:

(1) *International Symposium on Alcohol and Driving.*—November, 1982—Participants exchanged views on the pros and cons of various approaches used in the fight against drunk driving. Nearly 600 persons attended representing each of the fifty states, Sweden, Australia, Canada, Great Britain and Guam. (See attached conference report).

(2) *Stop Drunk Driving: A Call to Action.*—Produced in conjunction with the Insurance Information Institute and the Independent Insurance Agents of America, this documentary film was developed to share the International Symposium on Alcohol and Driving's message with audiences of all ages. The film has been distributed to hundreds of schools and organizations across the nation.

(3) *Jack Burnett Auto Safety Program.*—In an attempt to instill a sense of responsibility in young motorists, AIA sponsors a program which involves a series of presentations by Jack Burnett in which he describes to high school students how his own crippling automobile accident changed his life. Two films have been developed from Burnett's presentations, Jack's Story and Two Conversations with Jack Bur-

nett, and both are in great demand in high schools nationwide. (See attached brochure).

(4) *CB Radio Coalition Against Drunk Driving.*—Our Association joined with other organizations to form this coalition to promote the use of motorists' citizen band radios to report erratic driving behavior.

(5) *Public Service Announcements.*—The AIA, along with the Independent Insurance Agents of America and the International Association of Chiefs of Police, produced the attached public service announcement on drunk driving.

We will continue to be involved in additional programs of this type and encourage other groups to join us.

SUMMARY

The American Insurance Association believes that any successful drunk driving campaign should be community-based, with strong public and political support at the local, state and national levels. Additionally, it should be adequately financed and should address all aspects of enforcement, adjudication, education, treatment and public awareness. Finally, it should be seen as part of a long term commitment aimed at changing social attitudes.

As noted previously, the public is beginning to show significant support for drinking driver deterrence. Efforts by many, including citizen activists, government leaders such as Senator Danforth and the AIA, have had an important impact. However, there is still much work to be done to reshape public attitudes regarding the difference between social drinking and driving, and driving intoxicated. we realize that it will take time, and the problem will never be completely cured. Obviously, the task before us will not be an easy one; yet, the American Insurance Association and its members are committed to this effort and will continue to play an active role in the fight to reduce the horrible tragedies on our nation's highways.

STATEMENT OF NATIONAL ALCOHOLIC BEVERAGE CONTROL ASSOCIATION

The National Alcoholic Beverage Control Association (NABCA) is a national organization whose members are the 18 states (plus Montgomery County, Maryland), which directly control the distribution and sale of alcoholic beverages within their borders.

These jurisdictions, often called "control" or "monopoly" states, include Alabama, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, New Hampshire, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, Washington, West Virginia and Wyoming. They represent about 30% of the entire U.S. population. In some of these states, consumers purchase liquor, wine or beer by the package only in a state store from a state employee. In all of them, the distribution at wholesale of beverage alcohol is handled by state agencies.

Though diverse in geography, traditions and character, the control states share a common purpose: to promote moderation in the consumption of beverage alcohol and to discourage excess and abuse. That social purpose is the bedrock, the essential reason for being, of the control system.

NABCA is strongly opposed to the enactment of S. 1948, which would prohibit the sale of alcoholic beverages to anyone under the age of 21. NABCA strongly believes that any decision on a legal minimum purchase age is *more properly a state decision* under the provisions of the Twenty-First Amendment, *and more functionally a state decision* given the differences that exist, state to state, in the practical circumstances of regulation and enforcement.

NABCA takes no position on whether alcoholic beverages should be sold to any one under age 21. What its members strongly believe, however, is that the decision on a minimum purchase age is properly a *state* decision under the Twenty-First Amendment, and this authority of the states should not be overturned by the Congress.

THE CONTROL STATE SYSTEM

With ratification of the Twenty-First Amendment, repealing national prohibition, regulation of beverage alcohol reverted once again to the individual states—where, most were convinced, it had always belonged. The nation was too vast, its people too diverse, for any single standard of regulation—including prohibition—to comfortably apply. The only national consensus at repeal was that neither the crime and corruption of prohibition nor the ills and abuses of the pre-prohibition saloon were acceptable.

What was clearly needed, thoughtful observers felt, was a more practical approach to regulation—one that would realistically account for regional differences to creat a new, workable consensus at the state level; and one that would sensibly balance the zeal of the reform-minded drys, the interests of the legitimate beverage alcohol industry, and the individual rights of the durably thirsty wets. That need, eighteen states eventually decided, could best be met by direct control.

It has been five decades since the control states made that decision—five decades of tumultuous social change in America and of numerous re-examinations of the basic question of beverage alcohol control. Nevertheless, all of the original control states remain control states today. Such durability would seem to confirm the basic wisdom of the control state system and its ability to adapt to changing social conditions and the economic realities of revenue generation at state and local levels.

Put simply, the control state system works. Statistical data over the years clearly shows that per capita consumption of beverage alcohol is consistently lower in the control states than in the "open" or license states. In recent years, nearly a fourth lower. At a time when alcohol abuse is generally regarded as a major social problem, the public responsibility to promote moderation is clear.

NABCA and its members take that responsibility very seriously. But just as seriously, NABCA believes that the Twenty-First Amendment mandates the states, and not the federal government, to exercise that responsibility.

STATE REGULATION OF BEVERAGE ALCOHOL

The history of state regulation of beverage alcohol predates the first rumblings of Federal regulation by many decades. In the *License Cases*, 12 L.Ed. 256 (1847), the Supreme Court of the United States recognized a broad authority in state governments to regulate the trade in alcoholic beverages within their borders free from implied restrictions under the Constitution's Commerce Clause.

While the theoretical underpinnings of this case were undercut in *Leisy* v. *Hardin*, 135 U.S. 100 (1890), Congress moved quickly to reinvigorate the traditional regulatory role of the states through adoption of the Wilson Act in 1890 (27 U.S.C. § 121) and the Webb-Kenyon Act in 1913 (27 U.S.C. § 122). It should be noted that the Wilson Act, also known as the "Original Package Act," preserved for the states the authority to regulate alcoholic beverages which had moved in interstate commerce once those beverages had come to rest in a particular state. In other words, the Wilson Act, which is still in force today, provides for state authority over *local* aspects of alcoholic beverage distribution, such as methods of sale and minimum purchase age.

THE TWENTY-FIRST AMENDMENT

Congressional recognition of the state regulatory role was finally epitomized, of course, by the enactment of the Twenty-First Amendment, the text of which appears as an appendix to this statement.

S.J. Res. 211, which was later to become the Twenty-First Amendment, was ordered reported by the Senate Committee on the Judiciary early in 1933 as a proposal with four sections, not the three which ultimately were approved by the Congress. It is significant that Section 3 of S.J. Res. 211, as reported, read as follows:

"Congress shall have concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold."

A careful review of the Senator floor debate on this resolution, a debate which consumed many hours, indicates that the members of the United States Senate were concerned about the provision, quoted above, which would have given Congress "concurrent" power with the states to regulate alcoholic beverages.

It is clear from the debate that the provision was included in the proposed amendment because of a fear by some members of the Senate that repeal of prohibition would lead to a return of the dreaded "saloon." In fact, so pervasive was this fear that a floor amendment was considered which would have prohibited states from licensing the private distribution at retail of alcoholic beverages. This proposal was defeated by voice vote.

The conflict in the proposed amendment was summed up by Senator James G. Blaine of Wisconsin, the floor manager of S.J. Res. 211:

"The propose of section 2 is to restore to the States by constitutional amendment absolute control in effect over interstate commerce affecting intoxicating liquors which enter the confines of the States * * * under section 3 the proposal is to take away from the States the powers that the States would have in the absence of the eighteenth amendment."

[76 Cong. Rec. 4143 (1933)]

Senator Blaine went on to say that section 3 was "inconsistent" and "incompatible" with section 2 and "ought to be taken out of the resolution."

Senator Robert F. Wagner of New York, one of the leading proponents of removal of the proposed section 3, voiced his concern this way:

"If Congress may regulate the sale of intoxicating liquors where they are to drunk on premises where sold, then we shall probably see Congress attempt to declare during what hours such premises may be open, where they shall be located, how they shall be operated, the sex and age of the purchasers, the price at which the beverages are to be sold. * * *

"As for the saloon—let us face the fact that it is beyond the realm of proper Federal action. The duty of preventing its restoration rests upon the States. * * *

"No other course is open to us. No one single national standard can prevail. That is the principal lesson of our experience with the eighteenth amendment. Federal guaranties are futile. At the bedrock of this entire question lies this immovable truth: That there is nothing the Constitution can do, which will successfully impose a rule of conduct upon a community except by will of the people of that community.

"The problem confronting us * * * is to choose between two alternative courses. Either control of the local liquor traffic is to remain in the Federal Government or is to be restored to the states." [76 Con. Rec. 4147 (1933)]

Not too long after this statement, which succinctly summarized the choice confronting the Senate, the members voted to delete section 3 from the proposed Twenty-First Amendment. A few days later, the entire amendment was passed by the Senate, and still later, after little debate, it was approved by the House by an overwhelming 289–121 vote.

It is thus clear from the legislative history of the Twenty-First Amendment that the Congress of the United States explicitly intended that the states alone should have control and jurisdiction over purely local aspects of the sale and distribution of alcoholic beverages.

NABCA submits that the establishment of a minimum purchase age is one of those "local aspects" left to the states and cannot be controlled by the Congress in the guise of regulating interstate commerce.

COURT DECISIONS UNDER THE TWENTY-FIRST AMENDMENT

Section 2 of the Twenty-First Amendment grants the States far-reaching authority over interstate aspects of beverage alcohol distribution.

It should come as no surprise, therefore, that the courts have consistently applied a higher standard of scrutiny in cases involving state regulation under the Twenty-First Amendment than they would in the situation of other state regulation which may conflict with the Commerce Clause.

Consider the following:

In *United States* v. *Frankfort Distilleries,* 324 U.S. 293, 299 (1945), the Supreme Court noted that the Twenty-First Amendment "bestowed upon the states broad regulatory power over the liquor traffic within their territories."

In *Glicker* v. *Michigan Liquor Control Commission,* 160 F.2d 96 (1947), the United States Court of Appeals for the Sixth Circuit declared that the scope of a state's power to regulate the liquor business is much broader than in the case of its regulation of an ordinary lawful business.

In *Hostetter* v. *Idlewild Bon Voyage Liquor Company,* 377 U.S. 324, 330 (1964), the Supreme Court stated that "a State is totally unconfined by traditional Commerce Clause limitations when it restricts the importation of intoxicants destined for use, distribution, or consumption within its borders."

In *Wine Industry of Florida, Inc.* v. *Miller,* 609 F.2d 1167 (1980), the U.S. Court of Appeals for the Fifth Circuit noted that the Twenty-First Amendment "protects a state which chooses to impose a burden on the sale of alcohol which would be impermissable under the Commerce Clause if the item burdened was not alcohol."

In *California Retail Liquor Dealers Association* v. *Midcal Aluminum,* 445 U.S. 97 (1980), the Supreme Court of the United States reiterated that the Amendment "grants the states virtually complete control over whether to permit importation or sale of liquor and *how to structure the liquor distribution system"* (emphasis added).

In *Oklahoma Alcoholic Beverage Control* v. *Burris,* 626 P.2d 1316 (1980), the Supreme Court of Oklahoma found:

"The broad sweep of the Twenty-First Amendment to the Constitution of the United States gives the states near absolute power to regulate the liquor industry as long as they do not act in a discriminatory manner. Wide latitude as to choice of the means to accomplish regulation is accorded the state regulatory agency. This lati-

tude may include some regulation of rights granted by other portions of the United States Constitution most notably here, first amendment freedom of speech."

To be sure, there is some viability left in federal regulation. But consider the clear signal given by the U.S. Court of Appeals for the Fifth Circuit in *Castlewood International Corporation* v. *Simon,* 596 F.2d 638 (1979):

"Federal laws have prevailed over state regulation of intoxicating liquor in only two circumstances: (1) where the state regulation was repugnant to overriding national concern with due process and equal protection, and (2) where the state has sought to invade an area of exclusive federal concern, such as federally owned installations, regulation of commerce with foreign nations, and taxation of imports from foreign countries. Thus, absent a strong federal interest, the state scheme must prevail."

NABCA firmly believes that the federal interest exhibited in S. 1948, while praiseworthy, is not of the magnitude of concern expressed in *Castlewood* and so must be subrogated to action by the states.

FEDERAL REGULATION OF BEVERAGE ALCOHOL

Despite the passage of the Twenty-First Amendment, there remains an area of federal regulation of beverage alcohol. But this area is exceptionally limited and has essentially not been tampered with in nearly 50 years.

Federal control of beverage alcohol is founded on the Constitutional mandate to the Congress to protect and enhance the Federal revenue. It is for this reason that there is imposed on beverage alcohol a Federal excise tax.

It is also the reason that the Congress passed, in 1935, the Federal Alcohol Administration Act, 27 U.S.C. §§ 201 *et seq.* That statute, signed by President Roosevelt on August 29, 1935, was drawn to perpetuate the control of the alcoholic beverage industries formerly exercised through the Federal Alcohol Control Administration. That control was founded on provisions placed in the several codes of fair competition for these industries; those codes, in turn, were established under Title I of the National Industrial Recovery Act of June 16, 1933. This method of control existed from the effective date of the Twenty-First Amendment until May 27, 1935, when the Supreme Court, in the landmark *Schechter Poultry* decision, struck down the National Industrial Recovery Act.

In passing the Federal Alcohol Administration Act, the Congress noted that Federal regulation was necessary for "adequate conservation of the revenue" and because of the interstate nature of the alcoholic beverage industry. Specifically, the Congress declared that the individual states "could not alone provide those safeguards necessary for the protection of the revenue of the United States, prevent the use of the facilities of interstate and foreign commerce and the mails to carry on unlawful and deceptive practices, and protect their own citizens from the evils which are always present in an inadequately regulated liquor traffic." [H.R. Rep. No. 1542, 74th Cong., 1st Sess. (1935); 79 Cong. Rec. 11797 (1935)]

Those same sentiments were echoed by the Senate Finance Committee in reporting out its version of the bill. It should be noted that the "evils" which both Committees were discussing involve the activity of "unscrupulous persons," and "highly financed gangs of criminals and racketeers."

The Federal Alcohol Administration Act, in addition to establishing for a system of permits to be issued by the Federal government, provides for the regulation of a broad range of unfair competition and unlawful practices which, by their very nature and the nature of the industry which existed in 1935 and today, are generally interstate in scope and thus beyond the ability of any individual state to regulate.

Since 1935, there has not been one other piece of Federal legislation regulating the alcoholic beverage industry, save for the laws providing for the imposition of federal excise taxes and the annual appropriations bills which give direction to the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms.

While recognizing the severity of the problem of the drinking driver, NABCA submits that the same kind of overriding *Federal* interest which led to the Federal Alcohol Administration Act simply is not present in S. 1948. There is no link with the protection of the Federal revenue, and there is not the kind of interstate activity which is beyond the ability of the individual states to protect.

S. 2263

S. 2263, while not directly mandating a national minimum purchase age for alcoholic beverages, accomplishes the same result through the coercive technique of withholding basic highway aid funds from those states which do not adopt the 21-year minimum.

NABCA believes that this approach is just as destructive of state control as is S. 1948 and therefore the "take away" measures proposed on this bill ought to be rejected.

STATE ACTION

The states *are* taking action to cope with the problem of the drinking driver. DWI laws are being strengthened, state courts are imposing and broadening dram shop liability laws; and the minimum purchase age is being evaluated in state after state.

For those states, one might ask, what would work better in reducing the dangers and social costs of driving while intoxicated—expending more resources to enforce a Federal higher minimum age law, or expending those same resources in better enforcing DWI laws already on the books? The answer would be different—state by state, where local custom, tradition and circumstances differ widely. And in any case, the correct answer for each state is well within the means of the individual states to find.

The problem of the drinking driver cannot be solved by one piece of legislation aimed at only one part of the problem. It takes a comprehensive approach at the state level, because the cause and effect of the problem vary from state to state. There is also needed a stronger program of public education, an activity in which NABCA is participating.

CONCLUSION

In conclusion, the NABCA has no position on the merits of the establishment of 21 years as a minimum purchase age. But the Association does strongly oppose enactment of S. 1948 and S. 2263 for the reasons cited:

(1) that the Twenty-First Amendment delegates virtually all control over beverage alcohol regulation to the states;

(2) that the remaining Federal interest in beverage alcohol regulation is not of the type which is the rationale for S. 1948 and S. 2263;

(3) that states are moving to cope with the problems caused by the drinking driver, and that they should remain free to deal with the problem as they see fit, and not as the Federal government dictates.

TEXT OF THE TWENTY-FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.[1]

MINIMUM PURCHASE AGE FOR ALCOHOL BEVERAGES CONTROL STATES

State	Spirits	Wine	Beer
Alabama	19	19	19
Idaho	19	19	19
Iowa	19	19	19
Maine	20	20	20
Michigan	21	21	21
Mississippi	21	21	[1] 21
Montana	19	19	19
New Hampshire	20	20	20
North Carolina	21	21	[2] 21
Ohio	21	21	[2] 21
Oregon	21	21	21
Pennsylvania	21	21	21
Utah	21	21	21

[1] The Amendment was proposed by the Congress on February 20, 1933, and declared ratified on December 5, 1933.

MINIMUM PURCHASE AGE FOR ALCOHOL BEVERAGES CONTROL STATES—Continued

State	Spirits	Wine	Beer
Vermont	18	18	18
Virginia	21	19	19
Washington	21	21	21
West Virginia	[3] 19	[3] 19	[3] 19
Wyoming	19	19	19
Montgomery County, MD	21	21	21

[1] Age 18 for 3.2 percent beer.
[2] Age 19 for 3.2 percent beer.
[3] Age 21 for out-of-State residents.

MINIMUM PURCHASE AGE FOR ALCOHOL BEVERAGES LICENSE STATES

State	Spirits	Wine	Beer
Alaska	21	21	21
Arizona	21	21	21
Arkansas	21	21	21
California	21	21	21
Colorado	21	21	[1] 21
Connecticut	20	20	20
Delaware	21	21	21
Washington DC	21	[2] 21	18
Florida	19	19	19
Georgia	19	19	19
Hawaii	18	18	18
Illinois	21	21	21
Indiana	21	21	21
Kansas	21	21	[1] 21
Kentucky	21	21	21
Louisiana	18	18	18
Maryland	21	21	21
Massachusetts	20	20	20
Minnesota	19	19	19
Missouri	21	21	21
Nebraska	21	21	21
Nevada	21	21	21
New Jersey	21	21	21
New Mexico	21	21	21
New York	19	19	19
North Dakota	21	21	21
Oklahoma	21	21	21
Rhode Island	21	21	21
South Carolina	21	18	18
South Dakota	21	19	19
Tennessee	19	19	19
Texas	19	19	19
Wisconsin	19	19	19

[1] Age 18 for 3.2 percent beer.
[2] Age 18 for light wine.

STATEMENT OF SCOTT WEXLER, STUDENT ASSOCIATION OF THE STATE UNIVERSITY OF NEW YORK

Mr. Chairperson, members of the Senate Committee on Commerce, Science, and Transportation, thank you for the opportunity to express the views of The Student Association of the State University of New York (SASU) on the topic of drunk driving. My name is Scott Wexler and I am the Executive Director at SASU representing 150,000 students in New York's State University system.

We are gravely concerned about the fact that drivers under the age of 21 are overrepresented in alcohol-related accident and fatality statistics. Many of us know the devastation caused by the untimely death of the victims of drunk driving accidents.

Much time has been spent by SASU addressing the issue of drunk driving and the alternatives available for decreasing this problem. I have prepared an extensive packet of information for you on this issue and will highlight its main points briefly by examining what can be done about drunk driving and discussing the role of the federal government in the area of drunk driving.

WHAT CAN BE DONE?

The emergence of drunk driving as an important public policy issue at the beginning of the decade has made it a high priority item on virtually every state and local agenda in the country. As a result, most states have enacted stricter drunk driver laws aimed at reducing alcohol-related highway accidents and facilities.

In New York attention was focused on this issue in 1980. Recently, a report was released by the Chairs of The State Assembly's Transportation Committee and Drunk Driving Subcommittee reviewing the progress in New York State towards achieving drunk driving reform. I have included a copy of this report for Sen. Danforth to study and excerpts of this report are attached to this testimony. Permit me to highlight its findings:

The major need in developing a *strategy* for creating drunk driving reform was establishing an effective deterrent.

Twenty-seven separate legislative actions regarding driving while intoxicated had contributed to a significant reduction in alcohol-related highway accidents and fatalities despite an increase in vehicle miles traveled by New Yorkers.

Some eleven new recommendations for further reforming drunk driving were suggested.

There was a significant decline in 18–20 year olds driving while intoxicated data prior to any increase in the drinking age (NY raised its drinking age in 1982 from 18 to 19) and the increase to 19 may have been a terrible failure.

Youths appear to be the most cognizant of drunk driving as a serious problem and younger drivers, more than those in any other age group, reported that they now drink differently when they have to drive (results obtained from a recent survey conducted by the Institute for Traffic Safety Management and Research).

Appendix II of the attached report details the 27 separate actions taken by the N.Y. State Legislature from 1980–1983, and page four lists the eleven recommendations for this year. The report must be read in its entirety to get a full grasp on the diligence with which this study has examined this topic.

Educational efforts to change societal values is an important part of any effort to decrease drunk driving incidents. The N.Y. State Assembly report continually calls attention to the massive education effort undertaken by groups like Mothers Against Drunk Drivers, Students Against Drunk Drivers and the N.Y. State "Stop-DWI" program. They are credited with reversing public sentiment from accepting driving while intoxicated as a necessary evil of a mobile society to making its elimination a top public policy priority.

These aforementioned groups are not the only ones participating in this re-education of America. SASU has taken an active role in trying to adjust youths' perceptions of alcohol and alcohol abuse. Attached to my testimony is a copy of a brochure we have been distributing statewide with the cooperation of our university administrators. This is part of a larger alcohol awareness program that we have designed for implementation on the campuses. We are receiving very positive responses from our campuses and the university in regard to these efforts. I have given Sen. Danforth a full copy of our Alcohol Awareness Guide.

Ours are not the only efforts being undertaken by students. Boost Alcohol Consciousness Concerning the Health of University Students (BACCHUS) has led the way for students nationally to address the real problems of driving while intoxicated, irresponsible drinking attitudes and behavior. With chapters on many university and college campuses, BACCHUS strives to convince students to have an adult responsibility for an adult custom. Its was BACCHUS' leadership that enabled SASU to develop our alcohol awareness program. I included a sample of the work BACCHUS has done in the packet I submitted to Sen. Danforth.

Raising the drinking age is often suggested as a solution to the driving while intoxicated problem. Our research, as well as that done by the N.Y. State Assembly, finds this not to be advisable. Alex Wagenaar, noted expert in the area of highway safety, concluded in his latest publication that each state's experience with increasing the drinking age will be different. In fact while most proponents of increasing the drinking age use data to prove that this would save lives and decrease the incidents of driving while intoxicated many states have had different results.

Minnesota experienced a fourfold increase in deaths among 18–19 year olds when the drinking age was raised to 19. Montana raised the drinking age from 18 to 19 which resulted in a 14% increase in nightime fatal crashes among 18 year olds. When Massachusetts raised the drinking age from 18 to 20 in 1979 highway deaths among the affected population increased 23% the first year, followed by relatively small decreases thereafter. Highway deaths in the non-affected population decreased by 18%. Maine, Illinois, Iowa and Florida showed no significant change in fatality rates among the affected population. If raising the drinking age is an effective solution to the problem of drunk driving among our youth, why are the results so varied?

It is our belief that the projected effects of an increase in the drinking age ignores the fact many people today drink and drive in violation of the law and will likely continue to due so. This is supported by the constant appearance of underage drinkers in current driving while intoxicated figures and the partial compliance with past increase in the drinking age. Another authortarian rule doesn't seem to be an effective deterrent for this class.

There can not be a rational basis for raising the drinking age of non-drivers and women, and it would be discriminatory to do so. Thirty-eight per cent of 20 year olds and forty-four per cent of 19 year olds in New York do not hold drivers licenses. Yet they will be denied a privilege heretofor afforded them. For 19 and 20 year old women drivers, the alcohol-involved accident rate is lower than for most male age groups that would remain unaffected by an increase to a 21 year old drinking age.

The constitutionality of a national law setting a drinking age has often been called into question. William Coleman Jr. submitted testimony to the House subcommittee on Commerce, Transportation and Tourism making a strong case for such federal legislation to be outside of the constitutional bounds of the federal government. As for measures similar to Rep. Howard's amendment last week cutting off highway funds to states not raising their drinking ages to 21 within two year, this seems to suggest that Congress is a better judge of the correct public policy for New York than the N.Y. State Legislature. It also may cause states to adjust their drinking age, despite indications that the results may not be desirable, to avoid losing precious federal funds.

We at SASU are convinced that if we are interested in combatting the problem of drunk driving we need to focus our efforts on the entire population rather than a selective sub-group. We favor solutions that do not address this problem as a simplistic one, but rather attempt to change societal attitudes towards the drunk driver and driving while intoxicated. We perceive the need to focus on the youths, because of their overrepresentation in the data; but only on the offenders—not the lawful, responsible, mature, youths.

WHAT IS THE APPROPRIATE FEDERAL ROLE?

Currently the federal government is invovled with this problem on several fronts. Much success can be attributed to the program set up in 1982 by Congress giving incentive grants to states taking certain steps towards dealing with the drunk driving problem. This is appropriate and positive. When certain actions are proven to be effective Congress should reward states for their responsible activites by assisting them in further combatting the problem. I submitted many suggestions for actions that can be taken to have further progress with driving while intoxicated.

The Executive branch could initiate such a program through the department of Education or the Department of Transportation. Similar programs could be developed similar this giving money to groups engaged in public education. BACCHUS would be able to be more successful with greater resources. The federal government could also inititate a program similar to New York's "Stop-DWI", beginning a federal commitment to public education.

We are opposed to the federal government legislating specific public policy on this topic because of the varying successes of different proposals based on each state's own particular circumstances. There are far too many laws that would have to be legislated, involving the federal government much more than needed in developing the laws of the state. We cannot fall prey to the emotional argument that we should support federal legislation if it would save lives. Federal legislation on numerous topics could save lives. A mandatory seat-belt law would save thousands of lives, anti-smoking laws would also, as would increased aid to cities to feed the poor, etc.

Federal action that would withhold highway or other necessary funds until complying with suggested policy deprives the states of the ability to seve the needs of its residents. Such action could very well make it impossible to keep roads safe and hazard free. States would find themselves in a catch-22. Comply with federal sugges-

tion despite knowledge that it would have an adverse effect on the state or lose important federal money that is used to further similar goals.

In conclusion, it is clear that there is a driving while intoxicated problem in all states regardless of the drinking age. We believe that the most effective means of addressing the drunk driving problem in this country is for the states to develop effective deterrents similar to those in New York focusing on all drunk drivers. Authoritarian rules haven't worked and a national drinking age is likely not to be effective.

We would hope that after careful consideration you will agree with us that youths are for the most part extremely responsible and have already begun a revolution against drunk driving. The drunk driving problem is attributable to people who drink irresponsibly. These people are of all ages. There problem is related to a national obsession with alcohol and the grim reality that not everyone can handle this privilege. Have faith in the youths of today to take this problem thrust upon them by society and eradicate it from the society we hope to live in.

No one like drunk drivers. Lack of Congressional approval of legislation to establish national laws regarding drinking and driving should not be seen as ignoring the attempt to save lives, but rather recognition that this is a complex problem that the states are struggling to resolve and federal action would be a devastating intrusion.

If the person responds but is listless and sleepy, make sure the person is on her/his side so s/he will not choke in case of vomiting. Keep the person comfortable and let him/her sleep it off. A ride to the local detox center might be a sobering experience for your friend.

If the person is not breathing, proceed with mouth-to-mouth resuscitation and get help immediately.

Much care must be executed with the aggressive drunk who wants to fight everyone.

- First approach the person carefully and try to calm him/her down by using rational reasoning.
- Attempt to get the person to leave and go home with you or your friends.
- If the person continues to be assaultive and is hurting others, you should call the police to avoid further damage and for the individual's own protection.

How to Detect a Drinking Problem

Here are some basic warning signals that indicate a person may have a drinking problem.

1. A person who frequently drinks to a state of intoxication.
2. A person who relies on a drink to start the day.
3. A person who consistently skips classes due to hangovers.
4. A person who has blackouts and loss of memory from drinking.
5. A person who frequently drinks alone to escape from reality, boredom and loneliness.
6. A person who sustains bodily injury as a consequence of drinking.
7. A person who excessively denies s/he has an alcohol problem when approached about his/her behavior concerning alcohol.
8. A person who suffers from chronic hangovers and wants a drink to relieve the hangover.
9. A person who under the influence of alcohol does something he/she would not do otherwise.

If someone close to you seems to have an alcohol problem, don't be afraid to talk with him/her. Show concern and support without preaching or criticizing. Have a positive attitude and be sincere about your feelings. Be prepared to offer alternatives and specific advice as to what kinds of professional help are available, because the problem drinker is usually the last to know s/he has a problem.

Remember that responsible drinking includes responsibility for yourself and those around you.

If you follow the **tips on sipping**, you can minimize the problems of drinking alcohol and maximize the pleasures.

To learn about alcohol use and how you can prevent abuse problems:

Call or write: **SASU**

The content of this pamphlet was provided by BACCHUS of the United States, Inc.

Student Association of the State University of New York
One Columbia Place,
Albany, New York, 12207
(518) 465-2406

When You Drink THINK

A Student Guide to Responsible Decisions About Drinking

A Student Guide to
Responsible Decisions About Drinking

Alcohol beverages have been a source of both pleasure and problems since the beginning of civilization. They have been recognized throughout the ages as a source of relaxation, pleasure and conviviality, as well as nourishing the body, restoring and preserving health. Yet history shows that irresponsible use of alcohol can be destructive to individuals, families and societies.

Contrary to popular belief, the majority of problem drinkers are not "skid row bums." This population comprises only 3 to 5 percent of alcoholics in America. In fact, the proportion of heavy drinkers increases fairly steadily from 6 percent of those with grammar school education to 15 percent of those who are college graduates.

Problem drinkers are defined as persons experiencing negative behavioral consequences resulting from alcohol use. Using this definition, 10 to 15 percent of the students surveyed at various universities around the country were considered to be problem drinkers, and 30 to 45 percent said they had driven after several drinks during the previous year.

The answer to the problem is not prohibition, but rather prudence. The question is not so much whether to drink or not to drink, but rather, if you choose to drink, how to be a responsible drinker. It is hoped that this brochure will provide you with some advice and a few guidelines to help you to do just that.

How Will Alcohol Affect You?

Have you ever noticed that the same amount of alcohol can affect different people in different ways? Here are some factors that determine the way alcohol will affect you.

--How fast you drink. If you sip a drink and do not have more than one drink per hour, the alcohol will not have a chance to build up in the bloodstream.

--What type of beverage you drink. Diluting the alcohol with water will slow absorption into the circulatory system.

--How much you weigh. The same amount of alcohol has a greater effect on a lighter person than it does on a heavier person.

--Whether or not you have eaten. Eating, especially high-protein foods like cheeses and meats, will slow down the absorption rate.

--Your mood, attitude and drinking experience can determine the impact alcohol will have on your body. If you are tired or upset, alcohol will have a stronger impact than usual.

Tips on Responsible Drinking

If you use alcohol in a responsible manner, chances are that you will never experience a drinking problem. Thus, alcohol will be something to enhance your social relationships rather than impairing or destroying them. For the person who has made the decision to drink, here are some ways to avoid overindulgence:

--Keep in mind that drinking should not be the primary focus of any activity.

--Recognize another's right to drink or not to drink.

--Avoid encouraging or reinforcing irresponsible behavior.

--Remember that the right to drink is limited by society through laws governing drinking and driving, the minimum drinking age, etc., and respect these laws.

--Set a limit on how many drinks you are going to have when you drink, and stick to it.

--Drink slowly—don't gulp your drinks.

--Measure the beverage alcohol when you are mixing a drink.

--Use alcohol carefully in connection with other drugs.

--Discourage a driver who is under the influence of alcohol from driving; provide transportation at social gatherings where drinking is involved.

--Seek help if you think you have a drinking problem, and if you think someone else may have a problem, encourage him/her to seek help.

Tips on Planning a Party

Focus on more than drink. A party should be more a *social* event than a *drinking* event. Alcohol should enhance conversation and conviviality — not replace them.

Offer more than just alcoholic beverages. Some people choose not to drink alcohol for a variety of reasons. Be thoughtful and serve nonalcoholic beverages.

Serve snacks. Food helps slow the absorption of alcohol into the bloodstream. Serve high-protein foods such as cheese and peanuts.

Don't push refills. Wait until the glass is empty before offering your guest another drink. If a guest says, "No thanks" to another drink — accept his/her decision. Stop serving alcohol before the end of the party.

Drinking and driving don't mix. If guests do exceed drinking limits, don't let them drive! Take away their keys if necessary. Have someone drive them home or let them "sleep it off." Only time will sober them up.

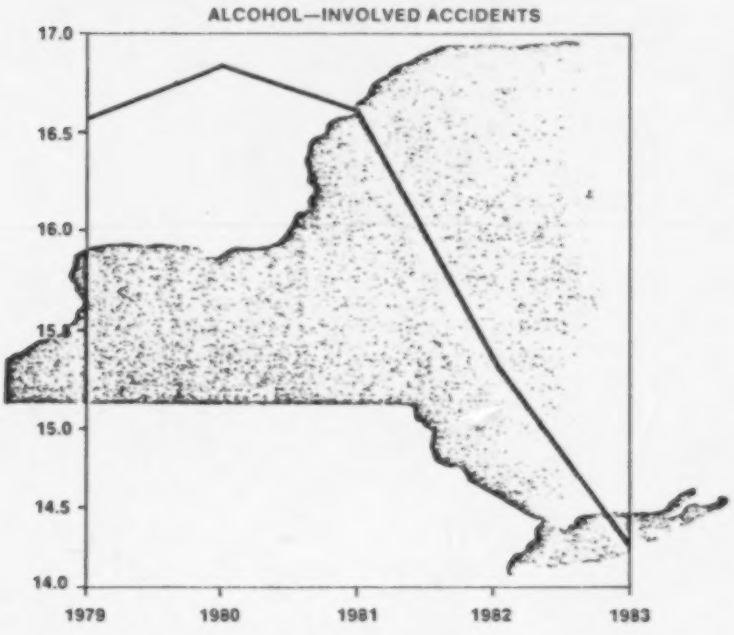
First Aid for the Intoxicated

There is no way to sober up quickly. It takes time for the person to metabolize the alcohol in the bloodstream. A cold shower, black coffee, oxygen or exercise will have little effect. A general rule of thumb is that it will take as many hours to sober up as the number of drinks ingested. Here are some basic first-aid procedures to use on an intoxicated person.

If a person has had "one too many" and passes out, monitor his/her breathing to make sure it's normal. If the breathing is irregular and the person appears to be in a coma, with a purplish skin tone, try to wake him/her by shaking or gently poking. If there is no response, call for medical attention immediately.

DRUNK DRIVING REFORM IN NEW YORK STATE 1980 - 1984

Strategy, Results, and Recommendations



**A REPORT TO STANLEY FINK,
SPEAKER OF THE NEW YORK STATE ASSEMBLY**

Submitted By

**Vincent J. Graber, Chairman
Assembly Committee on Transportation**

**Elizabeth A. Connelly, Chairwoman
Assembly Subcommittee on Drunk Driving**

EXECUTIVE SUMMARY

As recently as four years ago, drunk driving was perceived as an "issue" only by those who had been senselessly victimized by the acts of intoxicated motorists. For years the people of this nation inexplicably accepted as the norm the consumption of an excessive amount of alcohol in combination with the operation of a motor vehicle. In New York, the public's acceptance of the inevitability of drunken driving in our automobile-oriented society was reflected in the unfettered discretion provided by New York's drunk driving laws. The average person arrested for driving while intoxicated in New York in 1979 had a blood alcohol content (BAC) of .19, an amount that is almost twice the legal limit of .10, and his or her chances of being arrested were estimated as low as one in 2,000 drunk driving events. If caught, he or she could likely plead guilty to a non-alcohol related charge, such as reckless driving, and receive a penalty not likely to include loss of license. Even if convicted of drunk driving, the average fine imposed amounted to only $11. With little chance of being either apprehended or adequately punished, it is not surprising that few motorists were deterred from drunk driving by New York State's laws or their enforcement.

In 1980, however, public tolerance expired and drunk driving emerged across the nation as one of our most prominent social issues. A new message was conveyed to public officials that unnecessary life-threatening behavior should not be tolerated by a civilized society. The response in New York State was prompt and effective. Over the past four years, the Legislature has brought gradual and orderly reform to the drunk driving laws of the State. The results of the legislative initiatives are manifested in the development of a strong, self-supported system for addressing the various aspects of the problem, actual decreases in accidents and fatalities and notable changes in the attitudes and behavior of the people of this State.

Strategy

The statistical legacy of drunk driving behavior was the starting point for legislative action. Statistics showed that: more than one-half of all fatal traffic accidents involve the use of alcohol; alcohol consumption dramatically increases the chances of being involved in an accident; and alcohol-related accidents are more severe than other accidents and therefore are more likely to result in death or serious physical injury. Unfortunately, neither the publication of these findings nor the existing laws had adequately deterred New Yorkers from driving while intoxicated.

However, concern over this issue was being voiced by a growing number of citizens and by 1980, reducing the number of alcohol-related accidents emerged as a key objective of the New York State Legislature. Reform stategy was based on the need to establish an effective deterrent to driving while intoxicated, the deterrrent value of a legal threat being a function of the certainty of being apprehended, and the severity and swiftness of punishment.

To that end, the Legislature's first efforts in 1980 and 1981 focused on establishing a deterrent model that, if successful, could act as a solid foundation upon which complete reform could be undertaken. The elements of the model were:

1) restrictions on plea-bargaining for driving while intoxicated (DWI) charges;
2) reforms aimed at encouraging voluntary submission to breathalyzer tests;
3) a mandatory minimum fine schedule; and
4) development of county-based, violator-funded drunk driving programs.

From the success of these early laws, the Legislature was able to expand the scope of its efforts to encompass a series of measures aimed at repeat offenders, aggravated offenders (those who are charged with homicide or assault arising from drunk driving), administrative reform and the method by which alcohol is made available to the public.

Results

The measurable results of these efforts are gratifying. Based on available information, we have measured traffic accident and highway data three ways: number of accidents and fatalities; number of alcohol-related accidents and fatalities; and accidents and fatalities according to time periods. The latter measure allows us to use a surrogate factor known as "bar hours" (10 P.M. - 5 A.M.) in place of alcohol reporting. Each method of measurement shows a significant reduction in accidents and fatalities despite an increase in vehicle miles traveled by New Yorkers. Specifically, the findings are:

1) highway fatalities from 1980 to 1983 decreased by 21%, while the risk of being in an accident, as measured by vehicle miles traveled, increased by 5.3%;
2) alcohol-involved fatal accidents decreased 25% from 1981 to 1983;
3) all accidents have declined by less than 1.5% since 1980, while reported alcohol-involved accidents have fallen at almost ten times that rate (14.5%);
4) accidents during bar hours have declined 21.3% since 1980, while non-bar hour accidents actually have increased 3.6%; and
5) fatal accidents during bar hours have decreased 33% since 1980, while non-bar hour fatal accidents have decreased only 11%.

Drinking Age

The notable success of legislative efforts in bringing about a comprehensive reform of New York's drunk driving system and a significant reduction in alcohol-related accidents and fatalities has been obscured by a highly publicized debate over whether the drinking age in New York should be raised from 19 to 21. Unquestionably, the issue regarding the overrepresentation of young people in alcohol-related traffic accidents is of the gravest concern. However, there is much evidence to indicate that raising the drinking age is not the panacea proponents suggest. To the contrary, upon scrutinizing the available data the following findings become evident:

1) proponents have ignored the dramatic decreases in alcohol-related accidents and fatalities among young people brought about by general reform between 1980 and 1983;
2) many of the states that raised the drinking age have experienced either an increase or no change in accident and fatality data among the affected population;
3) there is no rational basis for raising the drinking age for women or non-drivers;
4) much of the statistical evidence used to support raising the drinking age is flawed by problems inherent in the data gathering;
5) the data used to estimate the success of raising the drinking age obscure its significant failure regarding those 18-year-olds who continued to drink and drive; and
6) there has been insufficient time to fully evaluate the impact of changing the drinking age to 19 years-of-age in December, 1982.

As a result of these findings, we propose that a series of alternative measures that more directly address the problem be included on the 1984 Assembly agenda.

Recommendations

Much has been achieved by the Legislature during the past four years and these achievements have been manifested in the form of measurable reductions in alcohol-related accidents. While some of the more recent efforts have not been in effect long enough to evaluate, there are some areas of the drunk driving problem that the Legislature must continue to address.

First, we are gravely troubled by the continuing overrepresentation of our young people among the seemingly endless toll of drunk driving victims and therefore recommend a series of proposals directed at the young driver.

Second, we propose that legislation be enacted to provide additional resources to the State and counties. As much as $29 million can be realized for drunk driving programs during the next four years without using any New York tax dollars.

Third, we urge the continued attention of the Legislature in monitoring the laws and procedures it has so carefully crafted. We therefore include in among our recommendations a series of important procedural changes that reflect the sudden evolution of a n complex drunk driving enforcement system.

Our specific recommendations for 1984 to achieve these goals are:

1) Legislation that prohibits any person under 21-years-old from obtaining regaining a driver's license if convicted of an alcohol-related offens (A.10980);

2) Legislation requiring that persons under 21 be the first to be given photo identification licenses by the Department of Motor Vehicles, (A.11329);

3) Legislation mandating that an alcohol component, similar to the one in the pre-licensing course, be included in all driver education classes, (A.11326);

4) Legislation to eliminate return of one-half of the fine to drivers who successfully complete the State Drinking Driver Program and allowing the money ($4 million per year) to accrue to the county STOP-DWI programs, (A.4171);

5) Legislation to qualify for $13 million in federal funds by establishing the following penalty options for felony DWI convictions: 48 hours jail or 48 hours inpatient treatment, or 10 days community service, (A.10978);

6) Legislation to allow counties to share STOP-DWI money with local participating State police units in order to help them cover expenses incurred by this program, (A.10962);

7) That the Legislature continue to urge and assist the development of county-wide programs designed to provide all drunk drivers with socially acceptable and economically feasible alternative methods of transportation;

8) Legislation to strengthen the procedure for license suspension pending prosecution for repeat offenders, (A.10979);

9) Legislation to clean up several unforseen issues collateral to the mandatory chemical test procedure in serious accident situations;

10) Legislation that eliminates requiring the prosecution to prove the existence of an additional negligent act in cases of vehicular assault, or vehicular manslaughter, unless the defendant raises the defense that the underlying accident was not the result of such person's intoxication, (A.9664); and

11) Legislation to streamline the method by which "scientific" evidence and other new breath test technology becomes admissible in the courts of this State, (A.6670).

This package of legislation reflects our recognition of the need to allow the major reform of the past four years to coalesce while still taking action on those related measures that deserve immediate attention.

PART III: RECOMMENDATIONS AND THE FUTURE OF DRUNK DRIVING REFORM

Chapter 9: The Drinking Age Dilemma

Recently, the success of the Legislature and localities in bringing about drunk driving reform has been obscured by a raging debate over whether the age at which a person may legally purchase alcoholic beverages in New York should be raised from 19 to 21. With Governor Cuomo assuming a leadership role among the proponents, interested parties have lined up on both sides of the drinking age issue to exchange highly publicized daily salvos. The Assembly has devoted considerable attention to the various viewpoints being expressed. We have examined the data, read the reports and spoken with our colleagues. After considerable analysis, we conclude that, while not compelled by many of the self-serving arguments set forth by affected opponents of the measure, we urge that the Legislature not enact the proposal to raise the drinking age at this time.

It is an acknowledged fact that drivers under the age of 21 are overrepresented in alcohol-related accident and fatality statistics. In 1982, nineteen and 20-year-olds comprised only four percent of licensed drivers, but were involved in 13% of alcohol-related accidents. Indeed, it can not be overstated that there is a significant problem regarding young drinking drivers resulting in dozens of unnecessary tragedies annually. The question at issue is how the Legislature can most responsibly and effectively solve the problem. Proponents of raising the drinking age recite the frightening raw statistics relating to young drivers and pronounce an increase in the drinking age the panacea. Opponents are outraged at the sweeping impact inherent in denying a privilege to an age group that is considered adult in most other respects. We have chosen not be become embroiled in rehashing the pros and cons of each group's position or in determining the merits of their charges and countercharges. Rather we have chosen to independently study all the statistical information available and to analyze it in the context of the drunk driving reform during the past four years. The following findings are the culmination of that research.

1. Proponents of raising the drinking age have seemingly ignored the dramatic decreases in alcohol-related accidents and fatalities, particularly among young people.

Part I of this report described in detail the development of a deterrent model, the key elements of which were plea bargaining restrictions, increased use of the breath-

alyzer, minimum fines and locally-earmarked financial resources. The short-term results for the entire population as described in Part II are impressive. The 28% reduction in "bar hour" fatalities (10 P.M. to 5 A.M.) between 1981 and 1982 is illustrative of those results. Yet an isolated look at that data reveals that between 1981 and 1983, the rate of alcohol-involved traffic accidents, per 10,000 licensed drivers, has declined in the State at a greater rate for 18 to 20-year-olds than for all other age groups.

Indeed, for a number of years there have been declines in the overall number of alcohol-involved accidents, and a greater rate of decline for 18 to 20-year-olds, even before the change in the drinking age. Specifically, in the years 1981 through 1983 drivers under 21 have consistently shown greater declines in alcohol-involved accidents than any other age group. Even before the drinking age change, drivers aged 18 showed the greatest proportionate decline. Each year since 1980, eighteen-year-old drivers experienced a faster rate of decline than they had the year before. In 1982, before the age change from 18 to 19, the figures for this group declined by 16%, and in 1983 after the age change, they declined by 28%. However, projected figures show that even if the age law had not been changed, 18-year-old alcohol-related accidents would likely have decreased by approximately 22%. This would indicate that the long-term approach developed by the Legislature has had its greatest impact on young drivers. Similar trends are shown by 19 and 20-year-old motorists. Proponents of an age change to 21 have failed to acknowledge these important trends in their zeal to promote a simple answer to a complex problem.

2. Much of the evidence used by proponents in support of raising the drinking age is flawed or misleading.

The Executive branch has compiled a dazzling array of statistics to support raising the drinking age. Upon close examination, however, it appears that these projections may be overly optimistic or even misleading.

The Governor asserted in his 1984 Message to the Legislature that raising the drinking age to 21 would save 75 lives and would result in 1,300 fewer serious accidents. These figures would represent nearly a 75% decrease from the amount of 1983 accidents and more than 65% decrease in fatalities caused by 19 and 20-year-old alcohol-involved drivers. However, our experience in this State gives us no reason to expect a 65 to 75% decline; changing the minimum age from 18 to 19 in 1982 resulted in only a 28% decline among the affected population and even that figure was partially attributable to the massive anti-drunk driving efforts undertaken statewide. Since, as we have noted, fatal alcohol-involved accidents are likely to be associated with heavy drinkers, it is reasonable

to argue that these drivers will be less likely to change their drinking norms merely by changing the drinking age.*

The Governor also mentioned in his 1984 Message to the Legislature that approximately 25% of alcohol-related auto fatalities involved drivers 21-years-old and under. While this may sound dramatic, we must understand that this 25% includes 21-year-olds who would be unaffected by the proposed drinking age change, and that many drivers 18-years-old and under were illegally drinking and driving in 1983 (approximately 1,100) and will continue to do so regardless of whether the legal drinking age is raised.

Most of Governor Cuomo's arguments on public opinion are based on a Marist College poll, which showed that 76.6% of those surveyed favored a 21-year-old drinking age. This poll was conducted to determine public opinion on Governor Cuomo's performance and on voting preferences in the Democratic primary. Minorities and young people were probably underrepresented because the pool of potential respondents was limited to registered voters. In 21 of the counties called in the poll, there were less than five respondents. No accounting was made of the ages of the respondents. Only one question was asked on the topic of the drinking age. As a result, people were not provided with an opportunity to consider and express their views on alternatives to the problem. In light of the fact that there are potential alternatives (see Chapter 10), the significance of the poll must be called into question.

It must also be recognized that the Governor, in compiling his projections for New York, has been handicapped by a variety of data problems similar to those set forth in Part II of this report. Among those problems are the following:

- For the years 1980, 1981 and 1982, New York was not considered a "good" reporting state for the Federal Government's Fatal Accident Reporting System (FARS). "Good" states report blood alcohol concentrations (BAC) for at least 85% of fatally-injured drivers. BAC levels help officials determine changes in the proportion of fatalities caused by alcohol involvement, and would help to evaluate the success or failure of drunk driving programs in New York State.

* See "A Thoughtful Critique of 'An Evaluation of the Changes in the Legal Drinking Ages in Michigan' by Alex C. Wagenaar and Richard L. Douglass, dated September, 1980," by Margaret L. Clary, April 1, 1983.

- The definition of highway "fatality" was changed in New York State on January 1, 1979. Therefore, pre-1979 data cannot be correctly compared with data collected after the effective date of the new definition.
- Reporting of alcohol-related accidents by police has increased since 1981, when the STOP-DWI program was initiated. During that period, many enforcement officials have focused on young drivers. Therefore, recent figures are not directly comparable with pre-1981 figures.
- No one knows the actual magnitude of drunk driving. We know only the number of police-reported alcohol-involved accidents, and occasional non-accident alcohol arrests.

In sum, data problems prevent us from accurately assessing the problem and leave us with no assurance that the result of the proposed increase in the drinking age will be the desired goal.

3. Proponents' projected figures ignore the impact of those who will continue to drive illegally.

Proponents of a 21-year-old minimum purchase age frequently cite the 25% reduction in alcohol-related accidents for 18-year-olds as a barometer for measuring the effect of raising the drinking age. This narrow view of the data ignores the existence of the remaining 75% of alcohol-related accidents involving 18-year-olds who have continued to drink illegally and drive. The limited success intimated by the 25% reduction obscures our failure to adequately address compliance among 18-year-olds with the existing drinking age.

Similarly, teenagers under the age of 18, who have never had legal access to alcohol, consistently have represented four per cent of alcohol-related traffic accidents in New York State. In 1983, one year after the drinking age change, 18-year-olds accounted for 7.7% of all alcohol traffic accidents. It is safe to say that raising the legal drinking age has had no positive impact on this group of illegal drinkers, nor will a subsequent change prevent these illegal purchasers from drinking and driving.

4. Many States that have raised the drinking age have experienced an increase or no change in accident and fatality data among the affected population.

Proponents of raising the drinking age cite a report by the Insurance Institute for Highway Safety that shows a 28% reduction in nighttime fatal crashes in the nine states that raised their purchase ages between 1976 and 1980. Michigan alone achieved a 30.7% reduction of accidents involving 18 to 20-year-olds when it raised the drinking age to 21 in

1978. Unfortunately, for every state that has experienced the glowing success of Michigan, there is a Minnesota, which experienced a fourfold increase in deaths among 18-year-olds when the drinking age was raised to 19. Interestingly, the death rate among older drivers did not substantially change during that time.

A wide range of reports show the failures of using an increase in the drinking age as a method of solving the drunk driving problem:

1) Montana - Raising the drinking age from 18 to 19 resulted in a 14% increase in nighttime fatal crashes among 18-year-olds (Institute for Highway Safety, The Effect of Raising the Legal Minimum Drinking Age on Fatal Crash Involvement, June, 1981).

2) Massachusetts - When the drinking age was raised from 18 to 20 in 1979, highway fatalities among the affected population increased 23% the first year, followed by relatively small decreases thereafter. Highway deaths in the non-affected population decreased by 18% during that time. (Report of the Commissioner of Probation, State of Massachusetts).

3) Maine, Illinois, Iowa and Florida - Showed no significant change in fatality rates among the affected populations.

If raising the drinking age is an effective solution to the drunk driving problem among our youth, why are the results so varied? Several explanations are suggested.

First, perhaps those states that witnessed a dramatic decrease in alcohol involvement by young people were affected by other variables. For example, when the drinking age was raised in Michigan in 1978, the people of Michigan were in the midst of the worst industrial economic crisis since the Great Depression. A poor economy is a key variable in affecting vehicle miles traveled and, therefore, indirectly impacts on accident data. Moreover, the second major gasoline shortage occurred in 1979. Each of these variables alone may have had as much as a 10% impact on reducing Michigan's accident data. Certainly these factors imply the possibility of misattribution of causality in evaluating the Michigan experience.

Second, some states may have relied solely on the increased drinking age approach to resolve the drunk driving problem. For example, Minnesota raised its drinking age from 18 to 19 in 1976. Within two years the number of 15 to 19-year-old drivers involved in fatal accidents increased by 32%, while the rate for the entire population increased by only 21%. By 1980, the rate among teenage drivers had increased 66% since the new drinking age had taken effect. Yet when Minnesota enacted its tough new drunk driving laws in 1981, a dramatic reversal occurred. The number of teenagers involved in fatal accidents declined by 40% in 1981 and a total of 66% by 1982.

Thus Minnesota, like New York, has increased its drinking age to 19 and enacted a comprehensive program of new enforcement laws. However, because Minnesota adopted its measures at different times, we can more accurately attribute causality in the Minnesota case than in New York, where the drinking age change was enacted at the same time as a number of major reform measures.

A third explanation that may play a role in measuring the effect of a drinking age change is the geographic location of the state. Massachusetts is a good example of a small state surrounded by states with lower drinking ages. In 1979 when Massachusetts raised its drinking age to 20, four of the five continguous states (New York, Vermont, Connecticut, and Rhode Island) had a legal purchase age of 18. Access to the legal purchase of alcohol so near to Massachusetts borders surely has a negative impact on the Massachusetts experience. New York's long borders with Canada and Vermont where the drinking age is 18 and Massachusetts where it is 20 would assuredly contribute to interstate travel for the purposes of consuming alcohol.

5. Raising the drinking age discriminates against non-drivers and females.

Thirty-eight per cent of 20-year-olds and 44% of 19-year-olds in New York do not hold valid driver's licenses. Yet they will be denied a privilege heretofor afforded them, while 17 and 18-year-olds, as well as those 21 to 24 years old, continue to comprise a significant portion of the alcohol-related accident population.

For 19 and 20-year-old female drivers, the alcohol-involved accident rate is lower than for most male age groups that would remain unaffected by a change in the minimum drinking age. In 1980, female 18-year-old drinking drivers were involved in less than one per cent of the alcohol-involved crashes statewide (159 out of 17,000). Eighteen, 19 and 20-year-old female drinking drivers create no more of a safety risk than drinking drivers of any age. In 1983, approximately 195 females aged 19 and 20 (1/10 of one per cent) were involved in alcohol accidents, out of approximately 175,000 licensed female drivers in that age group. Yet this group too would be penalized by having their privilege to drink removed.

While there is arguably a justification for taking some action against 18 to 20 year olds because of their overrepresentation in accident and fatality data, there is no rational basis for raising the drinking age for everyone in this age group, including non-drivers and women. As long as less intrusive alternatives to raising the drinking age exist (see Chapter 10), we would be disinclined to support that measure.

6. There has been insufficient time to evaluate the impact of changing the drinking age to 19-years-of-age in December, 1982.

The Department of Motor Vehicles has compiled only one year of accident data since the drinking age was raised from 18 to 19 in December of 1982. There simply has not been adequate time to determine the impact of raising the drinking age to 19.

The significance of data compiled over this short time is exacerbated by two additional factors. First, as discussed earlier, it is impossible to isolate the impact of raising the drinking age from numerous other changes in the law that took effect between 1980 and 1983. As we have seen, the deterrent measures have had the greatest impact on young drivers prior to changing the drinking age, and alcohol-related accidents have been declining for some years among 18-year-olds. Second, experience in other states and countries reveals a sharp decline in accidents among underage drivers for the affected population the first year after the drinking age is raised, followed by a steady increase thereafter. Until it is possible to distinguish which variables have had the most significant long-term impact on the rate of alcohol-related accidents, we feel it would be imprudent to initiate a second increase in the drinking age at this time.

Chapter 10: Conclusions and Recommendations

As little as four years ago, drunk driving was perceived as an "issue" only by those who had been senselessly victimized by the acts of an intoxicated motorist. For years the people of this nation inexplicably accepted as the norm the consumption of an excessive amount of alcohol in combination with the operation of two tons of steel. Yet in 1980, drunk driving abruptly emerged across the country as one of the most prominent populist issues of the day. A new message was conveyed to public officials that unnecessary life threatening behavior must not be tolerated in a civilized society.

In New York, the Legislature responded quickly to the call for action by restructuring the basic elements that comprise effective deterrence and reforming the system based upon those elements. As described in this report, the Legislature has initiated drunk driving reform by identifying and ameliorating those areas of existing law that were inconsistent with its ultimate goal of drastically reducing alcohol-related accidents and fatalities. The results of the legislative initiatives are manifested in the development of a strong, self-supported system for addressing the problem, actual decreases in accidents and fatalities, and notable changes in the attitudes and behavior of the people of this State.

The Legislature's primary task in bringing about successful drunk driving reform is nearing completion. Thoughtful reforms of the penalty provisions and procedures of the Vehicle and Traffic Law, the Penal Law and the Criminal Procedure Law have provided the necessary legal tools for law enforcement officials and judges. The STOP-DWI Program has supplied a continuous flow of resources to each county in the State to be used as they see fit in combatting drunk driving. Moreover, the level of public cognizance is high and should remain so provided the counties continue to keep the issue before the public eye.

Still there are those who propose to undertake additional major reform even when their proposed measures are inconsistent with the carefully crafted efforts of the recent past. Others cringe at the thought of any more attempts to "get tough" with drunk drivers. After careful consideration, we have chosen to ally ourselves with neither extreme, but to propose a limited program of narrowly focused legislative action for 1984. In light of the major accomplishments of the past four years, and in recognition of the fact that many of these measures have not been given ample time to become measurably operative, we recommend that legislative action this year should be focused on three specific areas. First, we should respond to the overrepresentation of young people in

alcohol-related accidents. Second, we seek legislation to improve the State and counties' abilities to tailor programs aimed at the entire spectrum of drunk driving issues. Third, the Legislature must continue to monitor and make technical adjustments to some of the more complex legislation developed during the past four years.

The following sections examine these recommendations in detail.

1. Alcohol involvement, drunk driving and young adults.

Undoubtedly one of our gravest concerns is the overrepresentation of young adults in alcohol-related highway statistics. Governor Cuomo and many others have suggested that the best solution would simply be to raise the drinking age to 21. As Chapter 9 shows, an increase in the drinking age does not focus specifically on the few young people who, like many older adults, abuse the privilege granted by the Twenty-First Amendment. The following legislative proposals are aimed specifically at young people and are consistent with the type of legislation that has reformed the way we view drinking and driving.

A. Young Driver's License Section (A.10980)

This bill would prohibit anyone under the age of 21 convicted of an alcohol-related offense from obtaining a driver's license until they are 21 or until six months after conviction, whichever is longer. Conceptually, the Vehicle and Traffic Law already provides for this treatment with regard to persons convicted of driving while intoxicated, but it has no effect on persons convicted of DWAI or driving under the influence of drugs, those who refuse to submit to a chemical test or those who are granted youthful offender status. Our proposed language expands the law to apply to any person in this age group who is convicted of an alcohol-related traffic offense.

The intent of this approach is clear. As many as 99.6% of young licensed drivers (aged 16 to 21) are not involved in alcohol related accidents. Forty-two percent of persons 18 to 20 do not even hold a drivers license. Yet consistently persons under the legal drinking age are involved in more than seven percent of alcohol-related accidents. This proposal would direct the medicine to the illness, rather than immobilizing the entire body. Threat of license loss has been proven consistently to be the most effective deterrent for young drivers. Youthful motorists would be put on notice - if they make even one mistake, they would face a legal driving age of not less than 21.

B. Photo Driver's License Priority (A.11329)

This legislation would require that drivers under the age of 21 be the first to be issued photo licenses. The Department of Motor Vehicles plans to implement the photo licensing system by July 1. Requiring young drivers to receive photos on their licenses during the first year of implementation would immediately help control the sale of alcohol to underaged drivers. Currently, there is very little difficulty in obtaining fraudulent forms of identification for the purpose of purchasing alcohol. As it stands now, should the photo-license system take effect in July a 16-year-old licensee would have to wait four years to get a photo license. The level of the drinking age matters little if we fail to aid bars, restaurants and package stores in prohibiting underage licensees from obtaining alcohol.

C. Expanded Driver's Education Curriculum (A.11336)

Under this measure, an alcohol-drug component would be added to the drivers education curriculum. The component would be consistent with the one included in the pre-licensing course pursuant to Chapter 719 of 1983. It would convey to prospective drivers important information about the effects of alcohol on the operation of a motor vehicle and the potential consequences for engaging in such behavior.

D. Increased Seat Belt Usage (Chapter 69, Laws of 1984)

We endorse this recently enacted law that requires Class 6 drivers, or those motorists less than 18-years-old, probationary drivers, or those who have held a license for less than six months, and permit holders to be restrained by seat belts while operating a motor vehicle. This measure will go a long way toward limiting serious injuries among inexperienced drivers. While it is not specifically a drunk driving measure, it is consistent with our commitment to prevent unnecessary injuries to our young people and to aid in the development of safe driving skills.

2. Ensuring the availability of adequate resources for State and county programs

Adequate law enforcement requires adequate resources. The application of drunk driving laws requires considerable expenditure of resources for manpower, equipment, court personnel, treatment facilities, public information and education. The innovative STOP-DWI Program currently provides $10.5 million to the counties to support their DWI programs. This money comes from the fines paid by convicted drunk drivers. In addition, the Drinking Driver Program and many treatment programs are user funded. As a result, little taxpayer money is earmarked directly for local drunk driver programs. The

following proposals could provide an additional $29 million for State and local programs without taxing the public or invading the State's General Fund.

A. Elimination of Half-Fine Rebate (A.4171-A)

This bill would eliminate the requirement that one-half of a drunk driver's fine be returned when he or she successfully completes the State's Drinking Driver Program. The existing law costs counties as much as four million dollars annually; money they need to expand local programs. Enactment of this bill also would solve current county administrative problems caused by having to keep money indefinitely in escrow to repay these drivers.

When STOP-DWI was first formulated it was felt that returning one-half of the fine would create an incentive to attend the Drinking Driver Program. Experience has shown that the conditional license, which is available only by participation in the DDP, provides sufficient incentive. The proposed bill would restore to the counties the amount of money originally envisioned by the Legislature when the STOP-DWI concept was first conceived. We anticipate that the additional money would allow the counties to supplement their programs with better funded and more innovative approaches to enforcement, prevention and treatment.

B. Increased Federal Funds (A.10978)

This legislation would enable New York to qualify for federal funding earmarked for drunk drivers. In 1982, Congress enacted measures providing incentive grants for state highway safety programs. Each state would qualify for a threshhold amount if it satisfied four basic statutory requirements in its DWI laws. Once a state has satisfied the threshhold requirements, it may qualify for additional funding depending on how many of the supplemental requirements are satisfied by its existing drunk driving statutes. At the present time New York need enact only one legislative change in order to qualify for $13 million in federal money during the next four years.

Therefore under our proposal, any person convicted of felony DWI would face a sentence of 48 consecutive hours in jail. In lieu of this sentence, however, the bill would permit the court either to require the defendant to serve 10 days of community service, or permit the defendant to submit voluntarily to not less than 48 consecutive hours of treatment in an inpatient rehabilitation program. While it has not been past policy to require mandatory jail for drunk driving convictions, due to the severity of the crime involved and the variety of options available to the court,

we think this legislation is meritorious. Additionally, it is clear that many judges currently sentence persons convicted of felony DWI to much longer jail terms. In light of these factors, we find the federal requirement to be reasonable and worthy of enactment.

C. STOP-DWI Funds for State Police (A.10962)

The State Police and counties would be permitted to enter into contracts providing funds to the State Police from STOP-DWI money. Currently, State Police make a significant portion of DWI arrests statewide, yet all STOP-DWI money is earmarked for locally-based county programs. This bill would allow the counties to help defer State Police expenses incurred in making these arrests.

D. Transporting Drunk Drivers

This bill would continue efforts to aid localities in developing alternative methods of transporting intoxicated drivers. As we indicated previously (p. 31), the Assembly has taken an active role in helping the STOP-DWI Coordinators to design and implement economically feasible and socially acceptable alternatives to driving an automobile while intoxicated. To this end, a series of working sessions have been tentatively scheduled with a wide cross section of interested parties. The meetings are intended to result in the publication of a variety of methods for financing and operating "alternative transportation" programs to give direction to the counties in developing their own programs.

3. Procedural improvements and technical adjustments

The Legislature has developed more than 25 drunk driving reform laws during the past four years. Great care was taken to assure that each measure was procedurally consistent with those adopted previously. In order to ensure that the entire system functions as intended, the Legislature has continuously monitored the operation of its reform efforts with an eye toward procedural or technical improvements. In keeping with this effort, we recommend several changes for the 1984 session that we feel will improve the level of enforcement and prosecution of drunk drivers cases.

A. Revision of Mandatory Suspension Pending Prosecution Law (A.10979)

Chapter 912 of 1981 provided for the mandatory suspension of the license to operate a motor vehicle on or prior to arraignment, pending the prosecution of a charge of driving while intoxicated when the motorist has been convicted of an alcohol-related driving offense within three years.

Subsequent to enactment of Chapter 912, however, it was discovered that in practice, the law did not work as intended. First, the requirement that the judge take the license on or prior to arraignment did not provide ample opportunity to determine whether the defendant had prior alcohol-related convictions. Moreover, the defendant was often in no condition to rebut the charges. Second, there was no stated procedure for showing reasonable cause. Some judges utilized the mere traffic ticket as sufficient evidence, while others, wanting to avoid an undefined hearing process, simply dropped the charges. Neither extreme satisfied the legislative intent.

The Legislature responded to this problem by passing A.7099-B in 1983. This proposal addressed those procedural issues by establishing (1) that the hearing must be held on or within seven days of arraignment and (2) that reasonable cause would be established in conformity with an accusatory instrument pursuant to Section 100.40 of the Criminal Procedure Law. Under this bill, the scope of the mandatory suspension law also was extended to those drivers charged with both DWI and either a homicide or assault arising out of the same incident, and to drivers who had been convicted of an alcohol -related offense during the previous five years rather than three years. Unfortunately, a technical error contained in the bill caused it to be vetoed. The error has been corrected and we recommend that the measure be adopted again this year.

B. Blood Test Law Revisions

Last year the Legislature enacted a law requiring the mandatory administration of chemical tests to suspected drunk drivers in cases involving death or serious injury (Chapter 481). Now that the law has been in effect for several months, suggestions have been forwarded by judges, prosecutors and others aimed at improving the administration of this measure. Later during the legislative session, we expect to address those problems we feel merit attention through specific legislation.

C. Drunk Driving Prosecution Reform (A.9664)

Another measure adopted last year created the crimes of vehicular assault and vehicular manslaughter (Chapter 298). This law was intended to allow prosecutors to bring specific charges for deaths and injuries caused by intoxicated motorists. Nevertheless, prosecutors are still faced with the extremely difficult task of proving

that the defendant, in addition to driving drunk, committed an additional "reckless" or "negligent" act to cause the accident. Since the prosecutors proof in establishing the elements of these crimes is usually derived from a reconstruction of the accident, the requirement that an additional reckless or negligent act be proven beyond a reasonable doubt is unduly prohibitive. This frequently leads to compromise verdicts and reduced scope of punishment.

We therefore support legislation that would eliminate the necessity of proving a defendant's criminal negligence and substitute a requirement that the prosecution prove the defendant, while driving drunk, caused the death or injury of another. If the defense claims the death or injury was caused primarily by some factor other than the defendant's intoxication or the manner of his or her vehicular operation while intoxicated, the prosecution would have to disprove this contention beyond a reasonable doubt. We feel this bill would eliminate undue confusion and add an additional measure of deterrence to this area of the law.

D. Admissibility of Scientific Breath Test Technology (A.6670)

This bill would authorize the use of any scientifically acceptable test that improves the accuracy and efficiency of determining the blood alcohol context of persons charged with driving while intoxicated.

When Article 31 of the Vehicle and Traffic Law was enacted, the "breathalyzer" was by far the most common method of measuring the alcohol content of a suspected drunk driver. While the "breathalyzer" is a "chemical test", police departments now are purchasing and using various instruments that employ methods such as infrared analysis rather than chemical techniques. Although these new instruments are extremely accurate and reliable, courts have construed them as not involving "chemical tests" under Section 1194 and 1195 of the Vehicle and Traffic Law. The proposed measure will allow for the use of the latest applicable technology and prevent the dismissal of cases charging violations of Section 1192 of the Vehicle and Traffic Law merely because the tests involved were not strictly "chemical."

The bill also would amend the Vehicle and Traffic Law to provide for swift review and approval of scientific technology to improve DWI arrest and evidence gathering techniques. Currently, the process of obtaining judicial acceptance of new technologies is ponderous and haphazard at best. This measure will assist the courts in establishing the scientific reliability of these techniques. In so doing, it

would expedite the use of these new methods by law enforcement officials and would eliminate the necessity of routinely retaining expert witnesses to establish the underlying principles and general reliability of such techniques. However, the proposal still would allow a defendant to raise issues surrounding the scientific principles or general reliability of new breath alcohol testing technology. In addition, since the State Health Department already is empowerd by statute to regulate the administration of alcohol test, enactment of this legislation simply would extend that authority.

E. Preservation of Breath Test Samples

The Legislature will continue to monitor closely the judicial controversy regarding the prosecutors duty preserve breath samples and take action as necessary. At the present time, several contrasting lower court decisions in New York have put into question the extent to which the prosecutor must preserve the defendant's breath sample in a DWI case. Because a defendant has the right to have a blood sample taken on his or her own, questions have been raised as to whether the government must preserve a breath sample for such independent analysis. On April 18, the U.S. Supreme Court heard oral arguments on this issue (People v. Trombetta, 142 Cal. App. 3d 139, 1983, cert. granted January 9, 1984, 83-305). We will await the Court's ruling and then take any necessary action that might be required.

Appendix I

COMPARISON OF PENALTIES: 1979 LAW AND 1984 LAW

SECTION	1979 PENALTY	1984 PENALTY
1192.1 (Driving While Ability Impaired)	First Offense Maximum $50 fine No minimum fine Maximum 15 days in jail 60 day license suspension	First Offense Mandatory $250 fine Maximum 15 days in jail 90 day license suspension
	Second Offense Maximum $100 fine No minimum fine Maximum 45 days in jail 120 day license suspension	Second Offense Maximum $500 fine Minimum $350 fine Maximum 30 days in jail minimum 6 month license revocation
	Third Offense Maximum $250 fine No minimum fine Maximum 90 days in jail Minimum 90 days in jail Revocation if prior conviction within 3 years	Third Offense Maximum $1500 fine Minimum $500 fine Maximum 90 days in jail Minimum 6 month license revocation If prior conviction within 10 years
1192.2 + 3 (Driving While Intoxicated)	First Offense Maximum $500 fine No minimum fine Maximum one year in jail Minimum 6 month license revocation	First Offense No change Minimum $350 fine No change No change
	Second Offense Maximum $5,000 fine No minimum fine Maximum four years in jail Minimum 6 month license revocation	Second Offense No change Minimum $500 fine No change Minimum 1 year license revocation (if prior conviction within 10 years)
521(c) (Conditional licenses)	Provides conditional license for driving to and from work and three hours day time driving per week (for most eligible first offenders)	No change
	Completion of course automatically satisfies fine/jail penalty	Completion of course satisfies one-half of fine penalty and all of jail penalty

SECTION	1979 PENALTY	1984 PENALTY
1194 (Chemical test refusal)	First Offense - 6 month license revocation after hearing - no fine	First Offense - mandates immediate license suspension and - 6 month license revocation after hearing - $100 civil fine
	Second Offense - 6 month license revocation - no fine	Second Offense (or if convicted of 1192 offense within prior 5 years) - one year license revocation - $250 civil fine
1194-a (mandatory chemical test)	- no statutory provision for mandatory chemical test - case law unclear	Mandates submission to a chemical test when a court order is obtained on the following grounds: 1) accident resulting in serious injury or death 2) reasonable cause to charge DWI 3) lawful arrest 4) chemical test refusal
1196 (plea-bargaining restrictions	No restrictions on plea-bargaining	Plea-bargaining to a non-alcohol offense on a charge of DWI prohibited
511(2) (driving while license is suspended or revoked)	- minimum fine $200 - maximum fine $500 - no mandatory jail (180 days jail maximum)	no change no change - mandatory 7 days in jail in addition to mandated minimum fine (may be served on intermittent basis)
570 (immediate license suspension pending prosecution)	No mandatory license suspension pending prosecution	Mandates immediate license suspension, pending prosecution of DWI charge, if accused had been convicted of any 1192 offense within prior 3 years
600 (leaving the scene of an accident resulting in serious injury or death)	- class B misdemeanor - class A misdemeanor if prior violation	- class E felony Whenever the accident involves death or a serious injury

DRUNK DRIVING CHAPTERS 1980 - 1983

Chapter/Year	Assembly/Senate Sponsors	Description/Effective Date	Page
C.229/1980	Gottfried Donovan	Leaving the scene of an accident: penalty upgraded. 9/1/80	25
C.806/1980	Graber Caemmerer	Plea bargaining restricted. 9/1/80	10
C.807/1980	Bersani/Graber Rules	Immediate, mandatory license suspension/revocation for chemical test refusal. 1/1/81	13
C.808/1980	Cooke Caemmerer	Technical amendment. 6/30/80	-
C.249/1981	Jenkins Pisani	DWI fingerprint records: exemption from sealing requirement. 6/15/81	21
C.347/1981	Graber Goodhue	Technical amendment re. Drinking Driver Program. 6/29/81	-
C.477/1981	Gottfried Marino	Coordinates administrative penalties with judicial penalty of probation. 10/1/81	28
C.838/1981	Hinchey Padavan	Dram Shop Act sign posting requirement. 7/27/81	31
C.910/1981	Connelly Smith	STOP-DWI Program. 11/28/81	15
C.911/1981	Robach Marino	Mandatory imprisonment for driving while license is suspended or revoked. 9/1/81	19
C.912/1981	Connelly Padavan	Mandatory license suspension pending prosecution with prior conviction. 7/31/81	20
C.913/1981	Connelly Smith	STOP-DWI Program: Chapter Amendment. 11/28/81	15
C.159/1982	Connelly Padavan	Drinking age raised to nineteen. 12/5/82	30

Chapter/Year	Assembly/Senate Sponsors	Description/Effective Date	Page
C.192/1982	Connelly Smith	Conditional license to out of state residents. 7/15/82	-
C.391/1982	Connelly Smith	Technical Amendment. 6/28/82	-
C.487/1982	Robach Bruno	DWI arrests in parking lots. 9/1/82	27
C.510/1982	Lafayette Smith	Technical amendment. 9/1/82	-
C.888/1982	Shaffer Smith	Mandates license revocation for second conviction of DWAI. 9/1/82	21
C.298/1983	Kremer Smith	Vehicular manslaughter and assault. 9/1/83	23
C.322/1983	Ruggiero Smith	One year revocation for repeat DWI offenders. 1/1/84	21
C.373/1983	Robach Padavan	Increased fines for purchasing alcohol for those less than 19-years-old. 6/26/83	31
C.481/1983	Graber Levy	Mandatory chemical tests in accidents involving death or serious injury. 10/13/83	25
C.641/1983	Patton Smith	Civil liability extended to those who provide liquor to persons less than 19-years-old. 7/25/83	31
C.719/1983	Connelly Levy	Pre-licensing courses; alcohol-education component added. 1/1/84	26
C.802/1983	Robach Smith	Chemical test refusal penalties; repeat offenders. 9/1/83	22
C.892/1983	Connelly Smith	Mandatory license removal procedure by judiciary. 1/1/84	27
C.896/1983	Connelly(Rules) Levy	Notification by insurance carriers of DWI penalties. 9/1/83	29